I. SITE PLAN REVIEW

1. Purpose

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which may have significant impacts on traffic, municipal and public services and utilities, environmental quality, community economics, and community values in the Town.

2. General Provisions

The Planning Board shall conduct site plan review and approval. Notwithstanding any provision of this By-Law to the contrary, any structure, use, alteration or improvement which meets any of the following criteria shall require site plan review and approval as set forth in this section:

- **a.** any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development of any off-street parking or loading facilities (except for residences requiring fewer than five stalls) and less than 8,000 square feet of gross floor area, any new construction or expansion, alteration or enlargement of a parking facility and/or off-street loading facility and/or any facility for the storage or sale of any type of new or used vehicle, including construction vehicles, truck trailers and/or any vehicle which would normally require licensing by the Commonwealth of Massachusetts shall be subject to the provisions of the first paragraph of Section IV.I.5, herein with regard to Contents and Scope of Applications;
- **b.** any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development of, redevelopment of, reuse of, change in use of, or an increase of at least 8,000 square feet of gross floor area, or which requires the provision of 30 or more new or additional parking spaces under this By-Law, or which results in a floor area ratio (FAR) greater than 0.32, shall be subject to this Section IV.I. in its entirety;
- **c.** any new structure or group of structures which results in the development of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I. in its entirety.
- **d.** any substantial improvement or substantial alteration or change in use of an existing structure or group of structures which results in the development, redevelopment, reuse, change in use or an increase of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I in its entirety.

For purposes of this Section IV.I, the calculation of increase in floor area shall be based on the aggregate of all new structures, improvements, alterations or enlargements, calculated from the date of enactment of this section.

3. Basic Requirements

- a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use, alteration or improvement subject to this section unless an application for site plan review and approval has been prepared for the proposed development in accordance with the requirements of this section, and unless such application has been approved by the Planning Board.
- **b.** The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements in Subsection 5 and the development impact standards in Subsection 6. Such waiver shall be issued in writing with supporting reasons.
- **c.** No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development and any associated off-site improvements conform to the approved application for site plan review and approval, including any conditions imposed by the Planning Board.

4. Application and Review Procedure

- **a.** Prior to the filing of an application pursuant to this section, the applicant, as defined in Section I.E.1 herein, shall submit a preliminary draft of such application to the Building Commissioner, who shall advise the applicant as to the pertinent sections of this Zoning By-law.
 - The applicant, as defined in Section I.E.1. herein, is encouraged to meet with the Planning Board for a preapplication conference prior to submitting a formal application. The purpose of the conference is to identify the scope of the proposed development, timeline for review, and need for potential outside consultants and to identify special development issues and necessary applications, permits and approvals required in preparation for a formal filing. Materials that are typically helpful to facilitating the conference include preliminary concept plan alternatives.
- **b.** The applicant shall submit to the Planning Board the application for site plan approval, conforming to the requirements of this Section IV.I. and as specified on the application. Upon receiving the completed application, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Engineering Department, the Planning Department, the Police Department, the Fire Department, the Board of Public Works and such other departments and boards as the Planning Board may determine appropriate.
- c. Such agencies shall, within 35 days of receiving said copy, report to the Planning Board on (1) the adequacy of the data and the methodology used by the applicant to determine impacts of the proposed development and (2) the effects of the projected impacts of the proposed development. Said agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such agency to report within the allotted time shall constitute approval by that agency of the adequacy of the submittal and also that, in the opinion of-that agency, the proposed project will cause no adverse impact.
- **d.** The Planning Board shall not render a decision on said application until it has received and considered all reports requested from Town departments and boards, or until the 35-day period has expired, whichever is earlier. Where circumstances are such that the 35-day period is insufficient to conduct an adequate review, the Planning Board may, at the written request of the applicant, extend such period to 60 days.
- e. The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing, shall properly serve notice of such hearing, and shall render its decision within 90 days of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. c.40A section 11, and with the requirements of Section V.L. of this By-Law. All costs of the notice requirements shall be at the expense of the applicant.
- **f.** In reviewing the impacts of a proposed development, the Planning Board shall consider the information presented in the application for site plan approval, including all items specified in Section IV.I.5.; all reports of Town departments submitted to the Planning Board pursuant to Section IV.I.4.(c); and any additional information available to the Planning Board, submitted to the Planning Board by any person, official or agency, or acquired by the Planning Board on its own initiative or research.
- **g.** The corner points and angle changes of the subject property lines shall be clearly marked in the field.
- h. If the Applicant's proposed development is located within 200 feet of a residential district or residential use, the Applicant is strongly encouraged to coordinate at least one informational meeting with residents through the Town Meeting Representatives in the applicable precinct(s), including adjacent precinct(s), to solicit public input. The Applicant shall submit a statement regarding the extent of communication with residents of the area about the proposed development with its application submittal. The Applicant shall post a Community Notice in a conspicuous location on the subject property. The Community Notice shall be as prescribed by the Planning Board, informing the public of the proposed Site Plan Application for the property. Said Community Notice shall be posted at least five days prior to an application submittal to the Planning Board, and shall be considered an application requirement.

5. Contents and Scope of Applications

An application for site plan review and approval under Section IV.I.2.a shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall be limited to a parking plan, pursuant to subsection 5.f, herein, containing items 1-15 as set forth in subsection 5.a, below, an environmental impact assessment, as set forth in subsection 5.g.(2), below, and a parking impact assessment, as set forth in subsection 5.g.(5), below. The Planning Board may require additional information be provided by the applicant, including but not limited to a Traffic Impact Assessment, should traffic and circulation matters or other development related issues be deemed important considerations to a site plan evaluation and decision.

An application for site plan review and approval under Section IV.I.2.b or 2.c or 2.d shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall include:

- **a.** A site plan at a scale of one inch equals twenty feet (1"=20'), or such other scale as may be approved by the Planning Board, containing the following items and information:
 - **1.** Topography of the property, including contours at a 2 foot interval based on the most recent National Geodetic Vertical Datum (NVGD).
 - 2. Location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 ft.
 - 3. Dimensions of proposed buildings and structures, including gross floor area, floor area ratio, total lot coverage of building, and breakdown of indoor and outdoor floor area as to proposed use. Area dimensions to include Lot Coverage of Building, Paved Surface Coverage, and Landscaped Open Space and Other Open Space, with percentages of these items to be provided and to total 100 percent of the lot area.
 - **4.** Maximum seating capacity, number of employees, or sleeping units if applicable.
 - **5.** Locations and dimensions, including total ground coverage, of all driveways, maneuvering spaces and aisles, parking stalls and loading facilities, and proposed circulation of traffic.
 - **6.** Location of pedestrian areas, walkways, flow patterns and access points, and provisions for handicapped parking and access, and bicycle accommodations.
 - 7. Location, size, and type of materials for surface paving, curbing, and wheel stops.
 - 8. Location, dimension, type and quantity of materials for open space, planting, and buffers where applicable.
 - **9.** Provisions for storm water drainage affecting the site and adjacent parcels, and snow storage areas. Drainage computations and limits of floodways shall be shown where applicable.
 - **10.** A photometric plan showing both the intensity of illumination expressed in footcandles at ground level to the property's boundaries and the location, orientation, height, wattage, type, style and color of outdoor luminaire(s) for all existing and proposed lighting.
 - 11. Identification of parcel by sheet, block, and lot number of Assessors Maps.
 - 12. Planning Board Signature Block at approximately the same location on each page of the submitted plans.
 - 13. Zoning Table to be located on both the front page of the submitted plans and on the Parking Plan/Site Plan page.
 - **14.** Water service, sewer, waste disposal, and other public utilities on and adjacent to the site.
 - 15. An area designated for the storage of waste and refuse.
 - **16.** Sign submittal showing sign locations and construction details which shall include the following information as may be applicable: a scaled drawing of each proposed sign showing all dimensions, colors, lettering, graphics, materials and type of illumination; scaled drawing showing all dimensions of facades proposed to contain signage and indicating the location and dimensions of the proposed sign and any

landscaped or other areas in which a freestanding sign is to be placed clearly showing the locations of the sign.

17. Any additional information required by the Planning Board to ensure compliance with this section. The Planning Board may waive any of the above requirements.

For convenience and clarity, this information may be shown on one or more separate drawings.

- **b.** A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.
- **c.** An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries.
- **d.** A locus plan at a scale of one inch equals 100 feet (1"=100'), or such other distance as may be approved by the Planning Board, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board.
- **e.** Building elevation plans at a scale of one-quarter inch equals one foot (1/4"=1'-0") or one-half inch equals one foot (1/2"=1'-0") or such other scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.
- **f.** A parking plan, at the same scale as the site plan.
- g. A Development Impact Statement which shall describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall consist of the following five elements

(1) Traffic Impact Assessment

(a) **Purpose:** To document existing traffic conditions, which includes vehicle, pedestrian and bicycle accommodations, in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic.

(b) Format and Scope:

- (i) Existing traffic conditions average daily and peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data are specifically approved by the Planning Board. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Planning Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.
- (ii) Projected traffic conditions for design year of occupancy: statement of design year of occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part or in whole by the Town.
- (iii) Projected impact of proposed development: projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed

development; and projected post-development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in (i) above).

(2) Environmental Impact Assessment

(a) **Purpose:** To describe the impacts of the proposed development with respect to on-site and off-site environmental quality

(b) Format and Scope:

- (i) Identification of potential impacts: description and evaluation of potential impacts on the quality of air, surface water, and ground water adjacent to or directly affected by the proposed development; on-site or off-site flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious area; on-site or off-site hazards from radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light impacts.
- (ii) Systems capacity: evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
- (iii) Proposed mitigation measures: description of proposed measures for mitigation of any potential adverse impacts identified above.
- (iv) The Stormwater Imapet Analysis shall describe the impacts of the proposed development on the quality, volume and rate of on-site and off-site stormwater runoff. The format and scope of the analysis shall identify any potential impacts of stormwater runoff and shall demonstrate compliance with the Massachusetts Department of Environmental Protection's Stormwater Management Standards, 310 CMR 10.00 using the guidelines and structure set forth in the latest edition of the Massachusetts Stormwater Handbook.

(3) Fiscal Impact Assessment

(a) Purpose: To evaluate the fiscal and economic impacts of the proposed development on the Town.

(b) Format and Scope:

- (i) Projections of costs arising from increased demands for public services and infrastructure.
- (ii) Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.
- (iii) Projections of the impacts of the proposed development on the values of adjoining properties.
- (iv) Five-year projection of increased Town revenues and costs resulting from the proposed development.

(4) Community Impact Assessment

(a) **Purpose:** To evaluate the impacts of the proposed development with respect to the Town's visual and historic character and development goals.

(b) Format and Scope:

(i) Site design and neighborhood impact: evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements); and of the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties.

- (ii) Historic impact: identification of impacts on significant historic properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development.
- (iii) Development goals: evaluation of the proposed project's consistency or compatibility with existing local and regional plans.

(5) Parking Impact Assessment

(a) **Purpose:** To document existing neighborhood parking conditions, to evaluate the off-site impacts of the proposed parking, and to mitigate any adverse parking impacts on the neighborhood.

(b) Format and Scope:

- (i) existing off-site neighborhood parking conditions, including identification of streets likely to be affected by the proposed development;
- (ii) projected impact of proposed development;
- (iii) proposed mitigation measures for adverse impacts identified above.

The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements of the development impact assessment listed in this paragraph g. Such waiver shall be issued in writing with supporting reasons.

6. Development Impact Standards

The following standards shall be used in evaluating projected impacts of proposed developments; provided, however, that an application for site plan review and approval under Section IV.I.2.a shall be evaluated using only the standards contained in Section IV.I.6.b. and Section IV.I.6.e, below. New building construction or other site alteration shall be designed, to the extent feasible, and after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to comply with the following standards:

a. Traffic Impact Standards

- (1) The "level of service" (LOS) of all impacted intersections and streets shall be adequate following project development, or the total value of off-site traffic improvements required or approved by the Planning Board as a condition of approval in any location within the Town affected by the proposed project shall be equal to a minimum of three per cent (3%) of the total development cost of the proposed project. For purposes of this standard:
 - (i) "level of service" (LOS) shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council;
 - (ii) "impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project;
 - (iii) "adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections; and
 - (iv) "total development cost" shall mean the total of the cost or value of land and all development-related improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the Planning Board, for the relevant type of structure and use.
- (2) The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

- (i) Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
- (ii) Where possible, driveways shall be located opposite similar driveways.
- (iii) Sharing of access driveways by adjoining properties and uses is encouraged.
- (iv) Left-hand turns and other turning movements shall be minimized.
- (v) Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
- (vi) Pedestrian and bicycle circulation shall be provided for in the site design and shall be separated from motor vehicle circulation as far as practicable.

b. Environmental Impact Standards

- (1) The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact.
- (2) The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on-site or on neighboring properties; and shall not increase rates of runoff from the site to the satisfaction of the Town Engineer and Board of Public Works. Provision for attenuation of runoff pollutants and for ground water recharge shall be included in the proposal. The proposed development shall comply with Massachusetts Department of Environmental Protection's (DEP's) Stormwater Management Standards, 310 CMR 10.00.
- (3) The design of the proposed development shall minimize the destruction of unique natural features.
- (4) The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.
- (5) Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.
- (6) Proposed structures, and existing structures adjoining the project site shall be free from shadows created by the proposed development from 9:00 a.m. to 3:00 p.m. on December 21. Proposed development within the Central Business District shall be exempt from this standard.
- (7) All outdoor lighting shall be designed and located so that a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site; except that this requirement shall not apply to (a) low-level intensity pedestrian lighting with a height of less than ten feet, or (b) security lighting directed off the wall of a principal structure.

c. Fiscal Impact Standards

(1) Projected positive net fiscal flow for first five years after design year of occupancy.

d. Community Impact Standards

- (1) Design elements shall be compatible with the character and scale of neighboring properties and structures.
- (2) The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc. All utilities within the property boundaries that are intended to serve the project shall be placed underground. If waste or refuse disposal areas are located outside of any existing or proposed building, the waste and refuse shall be placed in a container kept fully closed. Such containers shall be

surrounded entirely by solid fencing or other material as approved by the Planning Board and incorporated into the site design and landscaping. Adequate waste and refuse facilities shall be provided for all proposed uses.

- (3) The design of the development shall be consistent or compatible with existing local plans, including plan elements adopted by the Planning Board, Conservation Commission, Parks Commission, and other Town bodies having such jurisdiction.
- (4) The design of the development shall minimize earth removal and volume of cut and fill. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- (5) The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized and, if established trees are to be removed, special attention shall be given to the planting of replacement trees.

e. Parking Standards

- (1) The facility will not create a hazard to abutters, vehicles or pedestrians.
- (2) Appropriate access for emergency vehicles will be provided to the principal structure.
- (3) Adverse impacts on the abutters, residents, or businesses in the area or on the character of the neighborhood will be mitigated satisfactorily.
- (4) The snow storage area(s) shall be located so as not to encroach upon or obstruct any sidewalks or walkways or parking spaces, interior travel lanes or lot ingress/egress, inhibit site visibility, reduce the recommended minimum stopping sight distances or turning radii at any point on the site, or obstruct or encroach upon fire lanes or emergency access points.

7. Decision

a. Specific Findings Required

Prior to granting approval or disapproval, the Planning Board shall make written findings with supporting documentation as specified below. Such findings shall pertain to the entire proposed development including any site plan or design modifications imposed by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

b. Approval

The Planning Board shall approve an application, based on its review of the projected development impacts and the proposed methods of mitigating such impacts, if said Board finds that the proposed development is in conformance with this By-Law, after considering whether the proposed development will comply, to the extent feasible, with the standards set forth in Sections IV.I.6.(a) - (e); provided, however, that an application for site plan review and approval under Section IV.I.2.a shall be evaluated using only the standards contained in Section IV.I.6.b. and Section IV.I.6.e.

c. Disapproval

- (1) The Planning Board may reject a site plan that fails to furnish adequate information required by the by-law;
- (2) The Planning Board may reject a site plan where, although proper in form, the plan depicts a use or structure so intrusive on the needs of the public in one regulated aspect or another that rejection by the board would be tenable.

d. Expiration

A site plan review approval granted under this section shall lapse within two (2) years, not including such time required to pursue or await the determination of an appeal as referred to in MGL, Chapter 40A §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction was not begun by such date except for good cause.

8. Conditions, Limitations and Safeguards

In granting approval of an application the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include, among other matters and subjects:

- **a.** Controls on the location and type of access to the site;
- **b.** Controls on the number of vehicles that arrive or depart during the morning and/or evening peak hours (including controls on the maximum number of vehicles which may use the off-street parking areas during said periods);
- c. Requirements for off-site improvements up to a maximum value of six per cent (6%) of the total development cost of the proposed project to improve the capacity and safety of roads, intersections, pedestrian ways, water, sewer, drainage and other public facilities which are likely to be affected by the proposed development;
- **d.** Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widenings or improvements;
- e. Requirements for securing the performance of all proposed work, including proposed off-site improvements, by either or both of the following methods: (1) a performance bond, a deposit of money, negotiable securities, letter of credit, or bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required as conditions of approval; (2) a covenant running with the land, executed and duly recorded by the owner of record, whereby the required improvements shall be completed before the property may be conveyed by other than a mortgage deed.
- f. Conditions to minimize off-site impacts on traffic and environmental quality during construction.
- g. Requirements for reductions in the scale of the proposed development, including reductions in height, floor area, or lot coverage, provided, however, that any such reduction be limited to that which is reasonably necessary to reduce the level of impact of the proposed development to a level that will permit the Board to make the written findings required under Section IV.I.7.(a) herein.
- **h.** Requirements for screening parking facilities from adjoining premises or from the street by walls, fences, plantings, or other devices to mitigate adverse impacts;
- i. Conditions to mitigate adverse impacts to the neighborhood and abutters, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation, or snow storage.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of site plan approval.

9. Administration

- **a.** The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.
- **b.** The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered complete unless accompanied by the required fees.
- **c.** The Planning Board shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.
- **d.** Any person aggrieved by a decision of the Planning Board with regard to Site Plan Review may appeal such decision to a court having jurisdiction, in accordance with Massachusetts General Laws, Chapter 40A, Section 17.

10. Separability

The invalidity of one or more provisions or clauses of this section IV.I. shall not invalidate or impair the section as a whole or any other part hereof.

J. AUTOMATIC CARWASH AND/OR SELF-SERVICE CARWASH

Automatic or self-service carwashes constructed after the adoption of this section shall require review and approval in conformance with the provisions of this section. The Planning Board shall be the review and approval authority for permits granted under this section. Automatic and/or self-service carwashes shall be designed and operated according to the following standards:

- 1. Every new automatic or self-service carwash facility must provide an on-site, defined, paved area for the queuing of motor vehicles awaiting wash. The queuing area shall be designed to achieve the following objectives:
 - **a.** Accommodate the maximum queue expected during peak operating period. The applicant shall supply the Planning Board with estimates of demand during peak operating periods which form the basis for site design.
 - **b.** No queuing shall be permitted onto a public or private vehicular or pedestrian way open to use by the general public.
- **2.** Exit drives from every automatic or self-service carwash facility shall be designed to prevent water from the car wash from collecting within vehicular or pedestrian rights-of-way in or adjacent to the subject site.
- 3. Every automatic or self-service carwash facility must include water reclamation to the maximum extent feasible.
- **4.** The following additional provisions shall be applicable only to automatic carwash facilities.
 - a. Every automatic carwash facility must have a mechanical dryer operation at the end of the wash cycle;
 - **b.** Every automatic carwash facility must have a drip time in the wash cycle between the last application of water and the blower:
 - **c.** The Planning Board may also require that an attendant be assigned exclusively to the automatic carwash facility during all hours of operation.
- **5.** The following additional provision shall be applicable to self-service carwash facilities:

 Every self-service carwash facility shall have an on-site, defined, paved surface for drying and vacuuming vehicles. This area shall be separate from and outside of the wash bays and of sufficient area to accommodate peak period demand.
- **6.** An applicant proposing to construct an automatic or self-service carwash shall submit a site plan application which shall include the following information:
 - a. A locus map.
 - **b.** The location and dimensions of all buildings and structures. Lot and street lines and intersections within 300 feet. Zoning classification, ownership and use of all parcels immediately abutting the subject site.
 - **c.** A traffic impact assessment which shall include the projected peak hour and daily traffic generated by the carwash on roads and ways in the vicinity of the development; sight lines at intersections of proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed carwash; and projected post-development traffic volumes and levels of service of the intersections and streets likely to be affected by the proposed carwash.
 - **d.** The location and dimensions of all driveways, maneuvering spaces, queuing areas, parking spaces, employee parking as is appropriate, and proposed circulation of traffic.
 - **e.** The extent of impervious surfaces and the provisions for management of storm water as well as water used to wash vehicles. Drainage computations and limits of floodways shall be shown where applicable. Snow disposal areas shall also be shown.
 - **f.** The location, dimension and type of materials for open space, planting and buffers.

- g. A polar diagram showing direction and intensity of outdoor lighting.
- h. Any additional information required by the Planning Board to ensure compliance with this Section.
- i. The Planning Board may waive any of the above requirements.
- **7.** Any application for review and approval of an Automatic and/or Self-service Carwash shall be subject also to Site Plan Review under Section IV.I.2.a. Such application should be provided concurrently. The application process, review procedure and decision process for this Section shall follow the application process, review procedure and decision process, as applicable, under Site Plan Review, Section IV.I.
- **8.** In granting approval of an application for an automatic or self-service carwash, the Planning Board may attach conditions, limitations and safeguards as are necessary. Such conditions shall be in writing and shall be part of such approval. Such limitations may include the conditions set forth in Section IV.I.8. of this By-law, and may also include the additional condition set forth below:

conditions to permit the Planning Board to evaluate the facility after one (1) year of operation to determine that the conditions are sufficient.

The failure to conform to and maintain the foregoing standards may result, after hearing before the Planning Board, in revocation of any permit issued hereunder.

K. HIGHWAY OVERLAY DISTRICT REGULATIONS

1. Purpose and Intent

The purpose of this Section K is to manage the intensity of development and the quality of design along major highway corridors so as to protect the public health, welfare and safety and to enhance the economic vitality of the area. In particular, the provisions of this Section K are designed to limit congestion, to preserve environmental qualities, to improve pedestrian and vehicular circulation, and to provide for mitigation of any adverse impacts resulting from increased development in a complex regional center. In addition to these purposes, the open space and landscaping provisions of this section are designed to foster development that is of high visual and aesthetic quality.

Furthermore, it is a specific purpose of this Section K to establish parallel and consistent zoning regulations for highway corridor areas which are shared by the Towns of Framingham and Natick, in order to achieve a unified development character for such areas and to avoid substantive and procedural conflicts in the regulation and administration of land uses within such areas.

This Section K establishes a system whereby a development may attain a greater density than allowed by right, in return for providing public benefit amenities which compensate for one or more specific effects of increased density. These amenities may include traffic improvements (to accommodate increased traffic), pedestrian or transit improvements (to reduce traffic generation), creation of additional open space and public parks (to compensate for increased congestion and concentration of economic activities), provision of public assembly areas (to foster more balanced development and a sense of community).

The provision of increased development density in return for such amenities is specifically authorized by MGL Ch. 40A, Sec. 9, with respect to open space, traffic and pedestrian amenities, and is also generally authorized for other amenities.

2. Definitions

The following terms shall be specifically applicable to these Highway Overlay District regulations and shall have the meanings provided below.

Bonus: The construction of floor area in excess of that permitted as of right by the applicable FAR maximum.

Bonus Project: A project for which the applicant is seeking any one (1) or more of the bonuses provided in Section IX of these Regulations.

Change In Use: A change in part or all of an existing structure from one use category or purpose to another use category or purpose. In a mixed or multi-use facility, an exchange or rearrangement of principal use categories or components shall not be construed as a change in use unless the net change in any of the factors in the [Table of Off-Street Parking Regulations, Subsection IV.B.1(a)], requires an addition of 10 or more parking spaces to the amount required by this By-Law prior to the change in use.

Divider Island: A landscaped element running in a direction parallel to a vehicular travel lane, used to separate parallel rows of parking spaces.

Excess Pervious Landscaping: Pervious landscaping exclusive of wetlands, as defined herein, in excess of the amount required by the applicable LSR.

Floor Area Ratio (FAR): The ratio between (1) the gross floor area of all buildings on a parcel, including accessory buildings, and (2) the total area of the parcel.

Landscape Surface Ratio (**LSR**): The ratio between (1) the area of a parcel devoted to pervious landscaping or natural vegetated areas and (2) the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in M.G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred (100) feet of an upland area adjoining a developed area of the project.

Major Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area equal to or greater than 15% over the gross floor area in existence on January 1, 1992; or which is equal to or more than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, more than five thousand (5,000) square feet, which ever is the lesser amount.

Minor Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area of less than 15% over the gross floor area in existence on January 1, 1992; or which is less than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, less than five thousand (5,000) square feet, which ever is the lesser amount.

Nonbonus Project: A project for which the applicant is not seeking a bonus.

Open Space Public Benefit Amenity: A public benefit amenity in the form of a park or excess pervious landscaping, available for passive or active recreation, or leisure use, by the public.

Parcel: All lots utilized for any purpose in connection with creating a development, e.g. buildings, parking and detention basins.

Park: A continuous area of open space which is directly accessible to the public for scenic, recreational or leisure purposes.

Pedestrian Circulation Improvement: A public benefit amenity in the form of a pathway, off- site sidewalk or pedestrian bridge designed to facilitate pedestrian movement.

Pedestrian Bridge: A structure designed to convey pedestrians over a watercourse, railroad, or public or private right of way.

Pedestrian Tunnel: A structure designed to convey pedestrians under a watercourse, railroad, or public or private right of way.

Pervious Landscaping: Area that is principally covered with natural materials such as grass, live plants or trees.

Public Assembly Space: A room or facility, such as a meeting room, theater, amphitheater or auditorium, which is available on a not-for-profit basis for use by members of the public for civic and cultural events.

Public Benefit Amenity: An improvement, facility or financial contribution for the benefit of the general public, provided in connection with a development in order to qualify for an increase over the Base FAR.

Public Transit Endowment: A contribution to a trust fund, maintained by the Town of Framingham or another governmental body designated by the Board of Selectmen, established for the purpose of providing long-term financial support for local or regional transit systems serving the Regional Center district.

Service Road: A road that is designed to provide access to abutting properties so that the volume of traffic entering onto or exiting from major roadways is reduced.

Terminal Island: A landscaped element running in a direction parallel to individual parking spaces and having a minimum length equal to the length of any abutting parking space found at the end of a row.

Transit Amenity: A public benefit amenity which contributes to the use and/or long-term availability of public transit and is either a transit-related lane widening or public transit endowment.

Transit-Related Lane Widening: A new or expanded lane on an existing street, designed and reserved for use by high occupancy vehicles, such as buses and vans.

3. Establishment Of Districts

a. General

The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. There are two such overlay districts: the **REGIONAL CENTER (RC)** District and the **HIGHWAY CORRIDOR (HC)** District.

b. Regional Center (RC) District

1) The RC district shall be bounded as follows:

- Easterly by the Framingham-Natick Town line;
- Southerly by the boundary line between the General Business district and the R-1 Single Residence district on the southerly side of Worcester Road (State Route 9);
- Westerly by the intersection of Worcester Road and Cochituate Road (Route 30);

- The Northerly boundary shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of that portion of the northerly right-of-way of Cochituate Road, between Worcester Road (Route 9) and the Framingham-Natick Town line.
- 2) If, as of January 1, 1992, any portion of the area of a parcel falls within the RC district, then the entire parcel shall be deemed to fall within the district.

c. Highway Corridor (HC) District

The HC District shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of the right-of-way of Worcester Road (Route 9), but excluding (a) parcels that are included in the RC district as set forth above; (b) parcels located on the northerly side of Worcester Road between Edgell Road and the westerly ramp leading onto Route 9 (the Framingham Center); (c) the parcels known as the Framingham Industrial Park; and (d) and the parcels known as 9/90 Crossing.

d. Relationship to Underlying Districts

- 1) The Highway Overlay Districts shall overlay, all underlying districts, so that any parcel of land lying in a Highway Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.
- 2) All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified or supplemented by other provisions of the applicable Highway Overlay District.
- 3) Requirements for off-site contributions under Site Plan Review:
 - a) For non-bonus projects, the requirements of Sections IV.I.6(a) and IV.I.8.(c) regarding contributions for off-site improvements shall apply.
 - b) For bonus projects which comply in all other respects with the requirements of this Section K. and other provisions of the By-Law, the provisions of this Section K. regarding contributions for off-site improvements and public benefit amenities shall supersede and replace the requirement for off-site improvements under Section IV.I.6.(a) and IV.I.8.(c).

4. Use Regulations

a. General

- 1) The Highway Overlay Districts are herein established as overlay districts. The underlying permitted uses are permitted. However a developer must meet the additional requirements of this Section K.
- 2) Lots in a Highway Overlay District exclusively used or zoned for single or two family residential development are exempt from these regulations, regardless of the underlying Zoning District classification.

b. Multiple Use Developments

Multiple use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

5. Intensity Regulations

a. Base Floor Area Ratio (FAR) for Nonresidential Development

For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified below in this section.

b. Increase in FAR for New Construction with Public Benefit Amenities in the RC District

The Planning Board may, by Special Permit, grant an increase in the maximum floor area ratio above 0.32, up to a maximum FAR of 0.40, for parcels located in the Regional Center (RC) zoning district, subject to the following requirements:

- 1) Increased pervious landscape surface shall be provided in accordance with Section VI(b) of these Highway Overlay Districts Regulations.
- 2) Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined in accordance with the schedule of bonuses set forth in Section 9 of these Highway Overlay Districts Regulations. A FAR increase shall be granted only if the Board makes the Findings required in sub-paragraph G. of these Highway Overlay Districts Regulations.

c. Increase in FAR for Consolidation of Lots in the RC or HC Districts

In order to encourage consolidation of lots, the Planning Board may, by Special Permit, grant an increase in the floor area ratio above 0.32. Such increase shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, or 12,000 square feet, whichever is lesser, up to a maximum FAR of 0.40.

A FAR increase shall be granted only if the Board determines that the proposed consolidation will achieve, to the maximum extent feasible, the Objectives and Standards set forth in sub-paragraph c. 1) below and makes the Findings required in sub-paragraph g of this Section 5.

- 1) Objectives and Standards
 - a) The coordinated development shall be designed to provide access improvements and reduce the number of curb cuts as well as improve signage, unify landscaping, and achieve a higher standard of site design than would be possible with separate development of the individual lots.
 - **b)** Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.
 - c) The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).

d. Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alteration up to a maximum FAR of 0.40. Such increase shall be granted only if the Board makes Findings required in sub-paragraph g. of this Section 5. A special permit, under this Section, is not required for a minor alteration which does not exceed a FAR of 0.32.

e. Areas Excluded from FAR Computation

The floor area of the following types of facilities shall *not* be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the HC or RC district:

- 1) Day care facilities licensed by the State Office for Children
- 2) Off-street parking facilities and associated ramps and aisles;
- 3) Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and van pooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.
- **4)** Cafeterias for the primary use of the employees who work at the site.

f. Density on Parcels Where Portion Dedicated to Town or Commonwealth

Subject to the other provisions of this section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership of a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

g. Findings Required for a FAR Increase

In granting a FAR increase the Planning Board shall make a specific Finding, in writing, that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use, and in the case of new construction, that the increase shall not be substantially more detrimental to the neighborhood than the project at the Base FAR, and that all of the conditions set forth below are met. As the basis for its decision, the Planning Board shall

consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features. It shall be the responsibility of the applicant to demonstrate conformance with the following standards as part of the request for a FAR increase.

- 1) The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.
- 2) The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the Base FAR.
- 3) The proposed development complies with all other applicable requirements set forth in the Town of Framingham Zoning Bylaw, including, when required, the site plan review and/or off-street parking requirements in Section IV., thereof, subject to the following exceptions:
 - a) That such requirements are specifically superseded by these Highway Overlay Districts Regulations,
 - b) That the contribution for off-site improvements required by Section IV.I.6.(a) and IV.I.8.(c) shall be not less than three per cent (3%) of total development cost.

6. Open Space Requirements

a. Base Landscape Surface Ratio (LSR)

The base landscape surface ratio (LSR) shall be 0.20 for retail, consumer service and manufacturing uses, and 0.40 for office, research and development and other similar non-retail, nonresidential uses.

b. Increased LSR for Bonus Projects

For bonus projects, the minimum required landscape surface ratio shall be the sum of (1) the base LSR specified above for the applicable use, and (2) one-half of the difference between the proposed FAR and 0.32.

c. Multiple Use Projects

The minimum required LSR for multiple use developments shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

1) Non-bonus projects:

Minimum LSR= (Retail, service or manufacturing floor area percentage x 0.20)

+ (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)

2) Bonus projects:

Minimum LSR=[(Retail, service or manufacturing floor area percentage x 0.20)

- + (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)]
- + (one-half of the difference between the proposed FAR and 0.32)

d. Applicability

The requirements of this Section 6 shall apply to any new structure which requires ten (10) or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten (10) or more parking spaces.

7. Dimensional Regulations

a. Height:

- 1) Height limitations shall be as specified for the underlying zoning district(s).
- 2) The maximum height of new structures or altered structures where building height is increased, which are located adjacent to residential zoning districts shall be as follows:

DISTANCE FROM RESIDENTIAL DISTRICT	BUILDING HEIGHT
less than 50 feet	30 feet
equal to or greater than 50 but less than 200 feet	40 feet.
equal to or greater than 200 but less than 300 feet	50 feet.
equal to or greater than 300 but less than 400 feet	60 feet.
equal to or greater than 400 feet	80 feet

b. Setbacks:

- 1) Minimum front setbacks shall be as specified for the underlying zoning district(s).
- 2) Structures shall be set back a minimum of fifteen (15) feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified by subparagraph c., below.

c. Where Abutting Residential Districts

The minimum setbacks for structures located adjacent to residential districts shall be thirty (30) feet.

8. Landscaping Requirements

a. General Purpose and Intent

The requirements and standards set forth in this Section 8 are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development. In the event the applicant desires to deviate from the specific standards set forth below, the Planning Board may approve alternative plans if it finds that such alternative is clearly more feasible and/or preferable and that the proposed arrangement meets the general purpose, intent, and objectives of this Section 8.

b. Objectives

In order to accomplish the General Purpose and Intent of these Highway Overlay Districts Regulations specific objectives shall be accomplished by landscape plans, which shall include the following:

- 1) Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.
- 2) Buffer strips adjoining or facing residential uses or residential zoning districts shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.
- 3) Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.
- 4) All required landscaping shall be located entirely within the bounds of the parcel.
- 5) To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

c. Applicability

The requirements of this Section 8 shall apply to any new structure which requires ten (10) or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten (10) or more parking spaces.

d. Technical Requirements

All off-street parking site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect unless waived in accordance with Section 10.b.

e. Occupancy Permits

- 1) No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, [until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days shall have passed since the request was submitted to the Planning Board.
- 2) In cases where, because of seasonal conditions or other unforseeable circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon the approval of the Planning Board, under the following conditions:
 - a) the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained

- **b**) the amount of the escrow payment shall be set by the Planning Board and shall be equal to the remaining estimated cost of materials and installation, with allowance for escalation and contingencies.
- 3) Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan.

f. Landscaped Buffer Strips

1) General Standards

In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and to avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein, and shall be continuous except for required vehicular access points and pedestrian circulation facilities. All required landscaping amenities shall be located within the bounds of the parcel. Signs shall be designed to be integrated into the landscaping.

2) Specific Standards

a) Depth

Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third $\binom{1}{3}$ of the distance between the street right-of-way and any building line, but shall not be less than fifteen (15) feet in depth, and need not be greater than fifty (50) feet in depth. Sidewalks may be considered in the calculation of the buffer depth. Landscaped buffer strips adjoining or facing residential districts or residential uses shall be a minimum of fifteen (15) feet in depth.

b) Composition

The buffer strip shall include a combination of deciduous and/or evergreen trees and lower-level elements such as shrubs, hedges, grass, ground cover, fences, planted berms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

c) Arrangement

Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements. The following provisions set forth the form of arrangement of plantings. The form of plant arrangement is as follows:

- 1) At least one (1) tree shall be provided per twenty-seven (27) linear feet of street frontage or portion thereof. There shall be a minimum of three (3) trees in the entire buffer strip. Trees may be evenly spaced or grouped. Groups of trees shall be spaced no further apart than fifty (50) feet.
- 2) At least four (4) shrubs shall be provided per one hundred (100) square feet of landscaped area in the buffer strip.

d) Opaque Screens

An opaque screen may be comprised of walls, fences, berms, or evergreen plantings, or any combination thereof, providing that the Planning Board may require evergreen trees or shrubs instead of fences when deemed appropriate. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens as follows:

- 1) The screen shall be opaque from the ground to a height of between two and one-half $(2^{1}/2)$ to six (6) feet when planted or installed as determined by the Planning Board.
- 2) Walls or fences exceeding four and one-half $(4-\frac{1}{2})$ feet in height shall have plantings on the side facing the residential district, and may be required to have plantings on both sides.
- 3) Evergreen trees or shrubs shall be spaced not more than five (5) feet on center.

4) The Planning Board may require ornamental or shade trees in addition to an opaque screen, planted in conformity with the standards set forth in Section 8.f.2) c) above, depending upon the type, size and proximity of adjoining residential uses.

e) Berms

When berms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three (3) feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

f) Mulches

When used in required landscaping or buffers, mulches shall be limited to bark mulch or decorative stone. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

g. Intersection Sight Distance Restrictions

Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half $(2^{-1}/_2)$ feet above curb level and a plane seven (7) feet above intersecting roadway levels within the zone required for site distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

h. Landscaping within Off-Street Parking Areas

- 1) Standards for Landscaping Within Parking Areas:
 - a) Parking areas shall be broken into sections not to exceed one hundred forty (140) cars per section. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands".
 - b) Each landscaped island shall have a minimum area of one hundred fifty (150) square feet and shall consist of pervious landscaping. Landscaped islands may be curbed or without curbing as follows: Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. No tree shall be planted less than four (4) feet from the curbing. Rain gardens shall be designed to meet LID standards and other applicable stormwater management Best Management Practices (BMP's) and may be designed without curbing where appropriate.
 - 1) Divider Islands: The following additional design standards shall apply to divider islands:
 - (a) At least one landscaped divider island shall be provided for every four (4) parallel rows of parking.
 - (b) Trees shall be spaced not more than twenty-seven (27) feet on center.
 - (c) At least one (1) shrub shall be provided for every five (5) linear feet, or one (1) shrub per thirty-five (35) square feet of ground area, whichever results in a greater number of shrubs.
 - 2) Terminal Islands: The following additional design standards apply to terminal islands:
 - (a) Terminal islands shall be used either (1) to separate parking spaces from driveways and other vehicular travel lanes, or (2) to break up large numbers of parking spaces in a single row of spaces.
 - (b) Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes. In addition, terminal islands shall separate groups of parking spaces in a row, such that no continuous line of adjoining spaces contains more than twenty-five (25) parking spaces.
 - (c) As an alternative to separating groups of parking spaces with small internal terminal-islands, additional landscaped area may be provided. Such additional landscaped area shall be provided as additional depth in the buffer strip (above the minimum depth otherwise required in Section 8.b. above), terminal and divider islands adjacent to rows exceeding twenty-five (25) spaces, and shall be provided at a ratio of at least 1.2:1.0. However, no more than thirty-five (35) adjoining parking spaces may be provided in a row of spaces, regardless of the size of the landscaped islands at the ends of the row.
 - (d) Terminal islands shall contain at least two (2) trees when abutting a double row of parking spaces.

- (e) Landscaped terminal islands shall contain evergreen shrubs planted three (3) feet or less on center, in order to prevent damage due to pedestrian traffic.
- c) Grass or ground cover may be substituted for shrubs in divider islands and terminal islands with the approval of the Planning Board.
- 2) Increase of impervious areas: Notwithstanding the limitation on paved areas set forth elsewhere in Section 8.h.1)b), a landscaped island may be up to thirty-three per cent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas.
- 3) Use of porous paving materials: In order to minimize the amount of storm water runoff from paved areas, the use of porous paving materials is encouraged where feasible.

i. Landscaping Adjacent to Buildings

Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point and shall contain trees and shrubs. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five (5) feet from the building.

j. Standards for Plant Materials

- 1) All trees, shrubs and hedges must be species that are hardy in Plant Hardiness Zone 5, as defined by the American Standards for Nursery Stock and shall be resistant to salt spray and urban conditions where appropriate.
- 2) Plantings shall be selected and designed so as not to require high water use for maintenance.
- 3) Deciduous trees must be at least two and one-half $(2^{-1}/2)$ to three (3) inches caliper, six (6) inches above the top of the root ball, at the time of planting; and must be expected to reach a height of at least twenty (20) feet within ten (10) years, when considering the expected normal growth patterns of the species.
- 4) Evergreen trees must be at least eight (8) feet in height at the time of planting.
- 5) Ornamental or specimen trees must be at least eight (8) feet in height at the time of planting.
- 6) Shrubs and hedges must be at least three and one-half $(3-\frac{1}{2})$ feet in height or have a spread of at least twenty-four (24) inches at the time of planting.
- 7) Shade or canopy trees shall be provided within parking lots, and within buffer strips.

k. Design for Pedestrian Circulation

1) Pedestrian Access Through Buffers and Screens

Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.

- 2) Pedestrian Circulation in Parking Facilities
 - a) Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.
 - b) Pedestrian walkways shall be (i) integrated, to the extent possible, into the interior and/or perimeter landscaping of parking lots; (ii) constructed with a paved or similarly firm surface, at least six (6) feet in width; and (iii) separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

1. Maintenance

1) The owner(s) and/or developer(s) of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

- 2) A permanent water supply system, sufficient in the Planning Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or reused water, or wells, shall be used as the water source.
- 3) Maintenance bond: The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to one (1) growing season following completion of planting.

m. Pervious Landscaping

Up to five (5) per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

9. Bonus Density Provisions

a. Eligibility for Bonus Floor Area

If a proposed improvement or facility in the Regional Center district complies with the standards set forth in Section 5.b. above, it shall be eligible for bonus floor area in accordance with the requirements set forth in paragraphs b through f of this Section 9.

b. Public Benefit Amenity

To qualify for bonus floor area a public benefit amenity must be specifically listed in the Schedule of Benefits below. A public benefit amenity that is a physical space shall be one to which the public is assured access on a regular basis, or an area that is dedicated to and accepted by the Town for public access purposes. Furthermore, to be considered a public benefit amenity, a specific improvement or facility must be determined to provide a public benefit and to be appropriate to the goals and character of the area. In addition, the following requirements must be met:

1) Parks

To be eligible as a public benefit amenity a park must meet all of the following standards:

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet:
- be buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under section VIII.F.

For purposes of computing bonus credits, no more than one-third of the area of the park shall consist of wetlands, water bodies, steep slopes (over 25%), or other areas not usable for public recreation or leisure activities. On-site park area which meets the above standards and which is not wetlands may be used to satisfy the minimum landscape surface ratio (LSR) requirement. On- or off-site park area may be used to qualify the project for bonus floor area.

2) Pedestrian Circulation Improvement

Such improvements shall be directly accessible to the pedestrian circulation system, and shall where possible connect with existing pedestrian circulation improvements on adjacent parcels and/or provide for connection to such improvements which can reasonably be expected to be developed on adjacent parcels. The following standards shall also be applicable:

a) Pathway (Off-Site)

A pathway shall be at least (fifty) 50 feet from a vehicular circulation improvement for at least ninety (90) per cent of its length.

b) Sidewalk (Off-Site)

A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.

c) Pedestrian Bridge/Tunnel

Bridges or tunnels and should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge or tunnel shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

3) Service Roads

Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this Section 9.

c. Schedule of Bonuses

Bonus floor area shall be available in accordance with the bonus ratios listed in the following "Schedule of Bonuses", up to the maximum FAR permitted in this Section 9 if the Planning Board deems that the amenity offered by the applicant accomplishes the objectives of this Section K. The bonus ratio is the ratio of (1) the unit of public benefit amenity provided to (2) the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of "Square Foot" means that for each square foot of the amenity the project shall be eligible for three (3) additional square feet of floor area for permitted uses.

SCHEDULE OF BONUSES

PUBLIC BENEFIT AMENITY	AMENITY UNIT	BONUS RATIO*
Open Space Amenities		
Park	Square foot	1:1
Excess Pervious Landscaping	Square foot	1:0.5
Pedestrian Circulation Improvements		
Off-Site Sidewalk	Square foot	1:1
Pathway/Bikeway	Square foot	1:1
Pedestrian Bridge/Tunnel	Square foot	1:1
Public Assembly Space	Square foot	1:5
Traffic Improvements		
Service Road (24-30 foot paved width)	Square foot	1:3
Transit Amenities		
Transit-related Lane Widening	Square foot	1:2
Public Transit Endowment	Dollar (\$)	20:1

^{*}Note: BONUS RATIO= Amenity: Floor Area

d. State-Mandated Amenities

The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed in paragraph B above, only when the cost of such amenity exceeds 3% of the total cost of the project and if:

- 1) the provision of such amenity has been mandated as part of a State approval process; and,
- 2) the provision of the alternative improvement furthers the objectives of this Section 9; and,
- 3) the improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

e. Prospective Bonus Agreements

A project in the RC district, which proposes to provide a public benefit amenity but not to use the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a Special Permit and/or Site Plan Approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The maximum term of a PBA shall not exceed five (5) years, following which the rights to any unused FAR increase shall become null and void. If, for any reason, a change of use of a parcel that has been approved for an FAR increase which is in whole or in part unused is proposed within the affective term of a PBA, the owner must obtain the approval of the Planning Board to take advantage of such remaining increase.

The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this Section 9. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of this Section, nor shall such approval be considered to represent the granting of site plan approval or special permit approval for any future development.

f. Continuing Obligation for Bonuses

1) Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.

2) An applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance, upkeep and provision of insurance for the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.

10. Administration

The review procedures set forth herein are intended to apply to the *RC* and *HC* districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedures and requirements are more restrictive than set forth in these Highway Overlay District Regulations.

The Planning Board shall be the Special Permit Granting Authority for all special permits granted under these Highway Overlay District Regulations.

a. Thresholds for A Special Permit for Non-Bonus Projects

A development which requires site plan review and a special permit in conformance with the underlying zoning shall be required to conform with the additional requirements of these Highway Overlay Districts Regulations. No additional special permit or site plan review shall be required.

b. Thresholds for A Special Permit for Bonus Projects

1) An additional Special Permit is required for any proposed development which will exceed the base Floor Area Ratio (FAR) of 0.32, as described in Section V, hereto.

2) Procedure:

- a) When required, the procedures for site plan submission, review and approval shall be as set forth under Section IV.I. of this By-Law, except that the traffic impact standards of Section IV.I.6.(a) and IV.I.8.(c) including the requirements for off-site traffic improvements, are superseded by the provisions of Section 3.d.3) and 5.b. herein. In the event that multiple Special Permits are required either by these Highway Overlay District Regulations or by these Regulations and the Underlying Regulations, the review process employed shall occur simultaneously, with a separate vote recorded for each, to minimize, to the greatest feasible extent, the decision-making time period.
- b) The calculation of a major or minor alteration shall be determined by the Building Commissioner.

c. Modifications and Waivers

The Planning Board may modify and/or waive strict compliance with one or more of the standards, regulations and objectives set forth in these Highway Overlay District Regulations in accordance with the following procedures.

- 1) Findings Required for a Waiver: The Planning Board shall make a specific Finding, in writing, that a waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features; and whether the objectives of these Highway Overlay Districts Regulations are achieved.
- 2) Performance Standards for Waivers: The applicant will be required to demonstrate that the waiver, if granted, will accomplish the following design and performance objectives, as are applicable:
 - **a)** Landscaped buffer strips which create a strong impression of separation between developed areas and adjacent streets and/or residential areas.
 - b) Landscaped parking areas and landscaped areas adjacent to buildings to provide shade and visual relief from large expanses of impervious surfaces.
 - c) Improved pedestrian circulation within the subject site and, where possible, create pedestrian access to adjoining sites.
 - **d)** Maintenance of all landscaped spaces and buffer areas.
 - e) Improved vehicular access, reduced curb cuts for access drives, improved on-site circulation.

- f) Improved building architecture and facade to achieve compatibility and harmony with the surrounding neighborhood.
- **g**) Improved site signage.

d. Mutual Review

It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district as described below: Review and comment by the Planning Board of the Town of Natick is specifically encouraged. In its review of a site plan, the Planning Board shall consider any comments submitted by the Planning Board of the Town of Natick.

- 1) If the size of the proposed structure is equal to or greater than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick and shall meet with the Planning Board of Natick to describe the project, if requested by the Natick Planning Board.
- 2) If the size of proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick The Planning Board of Natick shall be notified of the dates of all public hearings regarding the project.

L. WIRELESS COMMUNICATIONS FACILITIES

1. Purpose

This Section is designed to provide guidance for the installation of towers, antennas and other communication structures for all types of wireless communications within the Town of Framingham. The By-Law will establish standards to protect the interests of the general public, provide for public safety, and minimize visual impacts on residential districts.

2. Definitions

- **a. AG:** Above-ground elevation at base of mounting structure.
- **b. ANTENNA:** A device, attached to any structure, for the purpose of transmitting or receiving wireless communication.
- **c. ART:** Above-rooftop of supporting building, including any penthouse, parapet or other similar structure extending above the rooftop.
- d. SPGA: Special Permit Granting Authority
- **e. TOWER:** Any structure to which an antenna may be attached for the purpose of transmitting or receiving wireless communications, including lattice or monopole towers, water towers, and church steeples.
- **f. WIRELESS COMMUNICATIONS FACILITY (WCF):** Any structure or device that is used for the express purpose of conducting wireless communication including antennas, towers, satellite dishes, or equipment for transferring wireless transmissions with or without a building to house and/or maintain such equipment.

3. General Requirements

a. Basic Requirements

- 1) No wireless communications facility (which shall include monopoles, satellite dish[es] over one [1] meter in diameter or antennas), shall be erected or installed except in compliance with the provisions of this Section, and shall require a Special Permit with review and approval as set forth herein.
- 2) Any proposed extension in height, addition of cells, antenna or panels, or a new replacement of a facility shall be subject to the provisions of the bylaw.
- 3) The Zoning Board of Appeals shall be the Special Permit Granting Authority (SPGA) for Special Permits under this Section.

b. Conditions

- 1) To the extent feasible, all service providers shall colocate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year [10] period) as technically practicable.
- 2) The SPGA must find that existing or approved facilities cannot accommodate the wireless communications equipment planned for any proposed facility, before a new wireless communications facility may be approved by the SPGA.
- 3) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- **4)** All wireless communications facilities shall minimize, to the extent feasible, adverse visual effects on the environment. The SPGA may impose reasonable conditions to ensure this result, including painting and lighting standards.
- 5) All wireless communication facilities shall minimize, to the extent feasible, adverse visual effects to the community. Where feasible, the equipment to relay the wireless transmission or to transfer the wireless transmissions to the phone system shall be located inside an existing structure. Otherwise, such equipment shall be located in a new structure in a location where the visual impact to the community will be minimized. The SPGA may impose conditions on the siting and screening of such structure.

- 6) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.
- 7) Applicants proposing to erect a wireless communications facility on municipally-owned land or structures shall provide evidence of contractual authorization by the Town of Framingham to conduct wireless communication services on municipally-owned properties.
- 8) Only free-standing monopoles, with associated antenna and/or panels, are allowed. The SPGA shall not grant a Special Permit for lattice towers and similar facilities requiring three [3] or more legs and/or guy wires for support.

c. Maintenance

The landowner of record shall be responsible for ongoing proper maintenance of the Wireless Communications Facility. Verification of maintenance and structural integrity by a certified structural engineer shall be required at the request of the Building Commissioner on a biannual basis. The Building Commissioner shall require a maintenance and removal guarantee bond for all wireless communications facilities subject to Special Permit under this Section IV.L. The Building Commissioner may require such bond for facilities which are exempt from Special Permit under subsection IV.L.3.e., below.

d. Removal

Any wireless communication facility shall be removed within one (1) year of cessation of use.

e. Exemptions

The following types of wireless communications facilities are exempt from the Special Permit requirement of this bylaw and may be constructed, erected, installed, placed and/or used within the Town subject to the issuance of a building permit by the Building Commissioner.

- 1) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that (1) the tower is not used or licensed for any commercial purpose; (2) the tower must have a cost or replacement value of less than \$10,000.00; (3) if the tower is a free-standing device, such device shall be installed in the rear yard only; and (4) the tower must be removed if the use is discontinued for one (1) year.
- 2) Towers used for the purposes set forth in M.G.L. C.40A, Section 3; and
- 3) Wireless Communication Facilities installed on other structures, provided that such Wireless Communications Facility, including its support, is:
 - a) finished in a manner designed to be aesthetically consistent with the exterior finish of such structure; and
 - **b)** mounted in such a manner so that it does not:
 - (1) obscure any window or other exterior architectural feature;
 - (2) extend above the highest point of the roof by more than fifteen (15) feet;
 - c) comprised of wireless communication facilities which do not individually or in the aggregate have a front surface facing surrounding streets and adjacent properties that exceeds fifty (50) square feet in area.

All applications for a building permit shall include color photographs of the existing structure to which the WCF will be attached and a color photograph or rendition illustrating the WCF.

4. Dimensional Requirements for Wireless Communication Facilities

a. A Wireless Communication Facility shall comply with the dimensional requirements applicable to structures for the District in which it is located; provided, however, that the following height and setback limitations for a Wireless Communication Facility shall supersede any limitations for the District.

b. Height Requirements

- 1) Any structure-mounted WCF shall not exceed fifteen (15) feet ART, and the total height from ground level to top of Facility shall not exceed eighty (80) feet AG.
- 2) Any free-standing WCF shall not exceed eighty (80) feet AG.

c. Setback Requirements

- 1) Any structure-mounted WCF shall conform to setback requirements as set forth in Section IV G2 of the bylaws.
- 2) The setback of a free-standing WCF from the property line of the lot on which it is located shall be at least equal to the height of the structure plus twenty (20) feet. The setback of any such facility shall be a minimum of three hundred (300) feet from a residential zoning district or residential use.
- **d.** Except for the replacement of an existing WCF, the SPGA shall not grant a Special Permit for a WCF in a residential zone.

5. Application Procedure

- a. All persons desiring to erect or modify a WCF shall apply for a Special Permit, in accordance with this bylaw.
- **b.** No application shall be accepted or acted upon until all the required information as set forth in this bylaw is provided by the applicant and all required fees are paid.
- c. The Building Commissioner or his agent shall perform a field inspection on all applications for a WCF prior to the hearing for the Special Permit. The results of the inspection shall become a permanent part of the applicant's file on a form prescribed by the Building Commissioner, and shall bear the date of inspection, comments and the signature of the inspecting officer.
- **d.** All applications for special permit shall include:
 - 1) A locus plan at a scale of 1" = 100' for each proposed communications structure.
 - 2) A site plan for each proposed communications structure at a scale sufficient to show setback of the wireless communications facility from the lot lines and indicating buildings, if any, and colors, landscape, lighting and fencing, and all residential districts and residential uses within three hundred (300) feet of the facility;
 - 3) Certification by a professional engineer that Federal Communications Commission (FCC), Federal Aviation Administration (FAA), Massachusetts Aeronautics Commission, Massachusetts Department of Public Health and American National Standards Institute (ANSI) standards insofar as they are applicable have been met;
 - 4) Specifications for construction, lighting and wiring in accordance with state and national building codes, including a description of the capacity of the WCF including the number and types of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations;
 - 5) A statement of the services to be supported by the proposed communications structure;
 - 6) Evidence, if applicant is sole user of a structure, that all possible means of colocation for multiple use of antennae elsewhere have been exhausted;
 - 7) Assessor's plan showing proposed locus;
 - 8) A completed application form.
- e. Fees for permits shall be established and amended from time to time by the Board of Selectmen.
- **f.** The owner of the WCF shall provide to the Town a certificate of insurance on a Commercial General Liability (CGL) form. The CGL insurance must be on an occurrence basis and at a limit as established and as may be amended from time to time by the Town of Framingham.

6. Design Requirements

The following guidelines shall be used when preparing plans for the siting and construction of all Wireless Communications Facilities:

- **a.** Any facility shall be designed to be constructed to accommodate its anticipated and future use and shall be designed to accommodate the maximum number of users technologically practicable. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
- **b.** All WCF's shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so as to blend in with the landscape or the structure on which they are located. A different color scheme shall be used to blend the structure with the landscape below and above the tree or building line.
- c. Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free-standing dishes or antennae shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
- d. Fencing shall be provided to control access to WCF's and shall be compatible with the character of the district.
- **e.** There shall be no signs, except for announcement signs, "No Trespassing" signs and a required sign giving the telephone number where the owner may be reached on a twenty-four-hour (24-hr.) basis. All signs shall conform with the Sign bylaws.
- **f.** Lighting shall be limited to that needed for emergencies and/or as required by the FAA, local, state or federal authorities, and shall be directed in such a way as to minimize glare and cause the least amount of interference with and light spillover onto neighboring properties.
- **g.** There shall be a minimum of one (1) parking space for each WCF to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

7. Permit to Construct

Upon receipt of a special permit from the SPGA, the applicant shall apply to the Building Commissioner for a permit to construct a WCF and shall provide written evidence that all preconstruction conditions as may be a part of the special permit decision have been satisfied.

M. OPEN SPACE RESIDENTIAL DEVELOPMENT

1. Purpose and Intent

The purpose of this Section is to allow, by special permit from the Planning Board, an alternate pattern of land development to the standard subdivision permitted in the single family residential districts (R-3 and R-4) in order to provide for the public interest:

- a. by encouraging the preservation of open space and natural landscape features in perpetuity;
- **b.** by encouraging creative site planning and the efficient use of land in harmony with its natural features through development which is designed to accommodate a site's physical characteristics such as topography, vegetation and wildlife habitat, wetlands and other water resources, and open spaces such as farmlands and meadows; and
- c. by preserving significant natural, historical or archaeological resources, including major scenic views.

The intent of this Section is to guide development consistent with the Town's Comprehensive Land Use Plan and the Town's Open Space Plan, and the Town's Preservation Plan and to establish flexible residential development standards and procedures that will support these objectives.

2. Applicability

Open Space Residential Development (OSRD) shall be allowed, by special permit, within "Single Residence R-3" and "Single Residence R-4" Zoning Districts, subject to the requirements of this By-Law for those districts, and in accordance with the additional requirements and standards specified herein. The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits issued under this Section. The Planning Board may issue a special permit under this Section, subject to the requirements of this By-Law, and in accordance with the additional requirements and standards specified within this Section IV.M., only if no variances have been issued from the requirements of this Section IV.M.

3. General Requirements

- a. Any parcel or parcels of land containing ten (10) or more acres, in one ownership, or any combination of parcels of land consolidated under a Purchase and Sale agreement containing ten (10) or more acres, or any combination of contiguous parcels of land containing ten (10) or more acres under ownership by two or more property owners where all such owners jointly apply for an OSRD Special Permit, in all cases, with definite boundaries ascertainable from a recorded deed or recorded plan, located within a zone permitting Open Space Residential Development and which may be developed as a conventional subdivision, may be considered for an Open Space Residential Development subject to a special permit. Such parcel or parcels to be included in an Open Space Residential Development Special Permit shall be defined herein as the **OSRD tract**
- b. After an Open Space Residential Development application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and a decision issued, as provided by these regulations.

4. Open Space Residential Development Standards

a. Permitted Uses: Permitted Uses in an OSRD shall be detached single family dwellings, accessory uses associated with residential uses as may be permitted in the Single Residence District, and accessory facilities owned and operated by the owner of the OSRD or the residents, such as building and grounds maintenance facilities, and recreation facilities and other uses noted under subsection **4.g.** Use of Common Open Space, herein.

b. Minimum OSRD Tract Size:

(1) The total area of the OSRD tract proposed for Open Space Residential Development shall be at least ten (10) contiguous acres. The OSRD tract must have at least 40 feet of frontage on an existing Town way. While existing public and private ways need not constitute boundaries of the OSRD tract, the area within such ways shall not be counted in determining its size.

- (2) The Planning Board may permit lots on directly opposite sides of a street to qualify as a single OSRD tract of land. To permit such division of an OSRD tract of land by a street, the Planning Board must find that this would comply with the purposes of this section and not result in any more dwelling units than would be possible in accordance with the provisions of this Bylaw if the lots on either side of the street were developed separately. If the Planning Board approves an OSRD tract of land divided by a street, it may permit the total number of permitted dwelling units to be constructed on either side of the street, subject to the Dimensional Regulations and Design Standards under subsection 4. herein.
- c. Density: The number of dwelling units in an OSRD shall be calculated via a Density Yield Plan.
 - (1) Density Yield Plan: The number of building lots which the Planning Board finds would be permitted by a conventional subdivision under the zoning requirements of the Zoning By-Law (other than the Special Permit provisions under this Section IV.M.) and all applicable land use regulations in the district (including wetlands protection), and complying with the Subdivision Rules and Regulations, as demonstrated by a preliminary subdivision density yield plan. Major site features and constraints to development should be delineated on this plan. In parcels located in areas not serviced by public sewer, and not proposed for extension of public sewer, the applicant must certify that each lot identified on the plan is buildable, as evidenced by a soils test, consistent with Title 5. In parcels located partly in more than one district, no more than the total number of lots which would be permitted under the zoning requirements of the Zoning By-Law (other than the Special Permit provisions under this Section IV.M.) in the combined districts, and complying with Subdivision Rules and Regulations, shall be permitted.
 - Such Density Yield Plan shall be submitted, as provided under Section 5 Special Permit Application and Procedures, herein. The applicant is encouraged to submit such material to the Planning Board office early in the development process, prior to submittal of a completed application, for verification and acceptance of the proposed development density.
- **d.** Dimensional Regulations: The Planning Board may grant a reduction of all dimensional regulations, specified in Section IV.G. for the zoning district, for all portions of an Open Space Residential Development, if the Planning Board finds that such reduction will result in better design, improved protection of natural and scenic resources, and will otherwise comply with these regulations, provided that in no instance shall any residential building lot deviate from the following Requirements:
 - (1) Minimum Lot Area: Each lot within an OSRD shall have a minimum lot area of 12,000 square feet in the R-3 Single Residence District, and shall have a minimum lot area of 20,000 square feet in the R-4 Single Residence District where public sewer or a community sewage collection and treatment system is provided.
 - (2) Minimum Frontage and Width: Each lot within an OSRD shall have a minimum frontage and width requirement of forty (40) feet.
 - (3) Minimum Lot Width at Building Line: Each lot within an OSRD shall have a lot width of not less than sixty-five (65) feet in all directions where residential buildings or accessory structures are located.
 - (4) Minimum Front Setback Requirement: The minimum front setback within an OSRD shall be thirty (30) feet.
 - (5) Building Location Requirements: No structure shall be located within thirty (30) feet of a residential structure on another lot in the OSRD tract in an R-3 zone, or within forty-five (45) feet of a residential structure on another lot in the OSRD tract in an R-4 zone, or within thirty (30) feet of the nearest point of the layout of a common drive, or within thirty (30) feet from the sideline of a street, or within thirty (30) feet of the Common Open Space (as set forth under subsections f., g., and h. herein), or within fifty (50) feet of the side boundaries of the OSRD tract. The Planning Board may require increased setbacks of buildings within the OSRD from some or all of the boundaries of the OSRD tract. A landscaped or natural vegetative area along the OSRD tract boundaries may be required, as appropriate, in order to provide a physical or visual separation between abutting uses. Natural vegetation should be retained in this vegetative area, whenever possible.
 - (6) Building Height Requirements: The maximum building height shall not exceed the building height requirements as specified for the district under Section IV.G. herein.
 - (7) Maximum Building Lot Coverage: The maximum building lot coverage shall not exceed twelve (12) percent.
- e. Streets and Utilities: All streets, whether public or private, and all drainage facilities and utilities, shall be designed and constructed in accordance with the Design Standards and Specifications set forth in the of the "Rules and

Regulations Governing the Subdivision of Land in the Town of Framingham", as amended. Waivers to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a special permit hereunder, in accordance with Massachusetts General Laws, Chapter 41, Section 81R, provided the Board determines such exceptions are in the public interest and are not inconsistent with the purposes of this Section, the Subdivision Rules and Regulations, and the Zoning By-Law.

f. Common Open Space Design Standards

- (1) Within an Open Space Residential Development, no less than forty percent (40%) of the land area shall be devoted to Common Open Space in an R-4 District, and no less than twenty-five percent (25%) of the land area shall be devoted to Common Open Space in an R-3 District. The Common Open Space shall not include land set aside for roads or residential parking, nor shall it include the residential building lots. No more than fifty percent (50%) of the Common Open Space shall contain wetlands as defined by Massachusetts General Laws, Chapter 131, Section 40.
- (2) Common Open Space shall be designed and planned as large, contiguous units, whenever possible, with logical boundaries. Strips or narrow parcels of Common Open Space shall be permitted only when necessary for access, when necessary to connect to other significant areas, when they are designed to protect linear resources such as trails or streams, or as vegetated buffer strips along the site's perimeter where the Planning Board finds that such strips are deemed appropriate and consistent with the purpose of the OSRD.
- (3) Common Open Space may be set aside in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.
- (4) Common Open Space shall be designed as part of larger continuous and integrated open space systems. Whenever possible, it should connect with existing or potential conservation or open space areas on adjoining parcels.
- (5) The Common Open Space shall include adequate upland access from a way or street.
- (6) The Common Open Space shall generally be directly accessible to each dwelling unit in the OSRD, unless the Planning Board finds that, due to topography or other conditions, this access is not practical.
- (7) The Common Open Space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes. The Common Open Space shall include the most sensitive resource areas of a property. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:
 - (a) Land which enhances or protects wetlands or floodplain adjacent to a water body, or which provides public access to the water body, or which provides water related recreational opportunities;
 - (b) Land which currently is in agricultural use or land which is suitable in size, location and soil characteristics for agricultural use;
 - (c) Land which provides a significant wildlife habitat or which is a unique natural area;
 - (d) Land which is to be developed for active recreational use including playing fields, boat launching areas, playgrounds, and neighborhood parks;
 - (e) Land which preserves existing trail networks or land on which new trails will be developed, for integration into an existing trail network;
 - (g) Land which enhances or provides significant scenic vistas or views, or which provides scenic roadside views;
 - (h) Land providing desirable public access to existing recreational or conservation land.

g. Use of Common Open Space

(1) Common Open Space shall be identified as such on the Concept Plan, and submitted in accordance with Section 5 herein and, subject to appropriate municipal approvals as needed, shall be dedicated for conservation, active and passive recreation, park purposes, outdoor and/or environmental education, forestry, agriculture, or

- horticultural uses, natural buffers, maintenance structures necessary for approved uses, utilities, and other facilities necessary for the convenience and enjoyment of the residents of the OSRD tract.
- (2) A portion of the Common Open Space may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to the OSRD or adjacent land, if it is determined that such a use is consistent with the purpose and intent of the Open Space Residential Development.
- (3) A portion of the Common Open Space may also be used for the construction of leaching areas associated with septic disposal systems serving the OSRD or for water supply wells serving the OSRD, if the Planning Board determines that such use will enhance the specific purpose of Open Space Residential Development and promote better overall site planning. Septic disposal easements shall be no larger than reasonably necessary.
- (4) The Common Open Space shall be subject to easements for the construction, maintenance, and repair of utility and drainage facilities serving the OSRD or adjacent parcels.
- (5) The Common Open Space shall remain unbuilt upon, except that an overall maximum of five percent (5%) of such land may be subject to pavement and structures accessory to the dedicated use or uses of the Common Open Space.
- (6) The proposed use of the Common Open Space shall be specified on a Land Use Plan, and appropriate dedications and restrictions shall be part of the deed to the Common Open Space.

h. Common Open Space Ownership and Maintenance

- (1) Common Open Space may be conveyed in whole or in part: (a) to the Town of Framingham (subject to approval by Town Meeting and all other appropriate municipal authorities), and may be accepted by it for park, recreation, open space and/or conservation use; (b) to a nonprofit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and uses to which the Common Open Space is to be dedicated; and/or (c) to a corporation, homeowners association or trust owned or to be owned by all of the owners of lots or dwelling units within the OSRD. If such a corporation, homeowners association, or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units
- (2) The proposed ownership of all Common Open Space shall be shown on the Land Use Plan for the OSRD.
- (3) If any portion of the Common Open Space is not to be conveyed to the Town of Framingham, then a perpetual restriction of the type described in M.G.L. Chapter 184, sections 31 33 (as may be amended), approved by the Planning Board and running to and enforceable by the Town or such department or official who may be delegated this authority, shall be imposed on the use of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with provisions of an OSRD as set forth herein.
- (4) Common Open Space shall not be permitted to be divided into individual backyard areas.
- (5) At the time of its conveyance, the Common Open Space shall be free of all encumbrances, mortgages or other claims (including pre-existing conservation easements or restrictions), except as to easements, restrictions and encumbrances required or permitted by this OSRD By-Law.
- (6) If any portion of the Common Open Space is conveyed to a corporation, homeowners association, or trust of the homeowners of the dwelling units in the OSRD, then, the following shall be required. In order to ensure that the grantee will properly maintain the land deeded to it under this section, the developer shall cause to be recorded in the appropriate Registry of Deeds, a Declaration of Covenants and Restrictions which shall, at a minimum, provide for (a) mandatory membership in an established corporation, homeowners association, or trust, as a requirement of ownership of any residential unit or lot in the OSRD tract; (b) provisions for maintenance assessments of all owners of residential units or lots in order to ensure that the open land is maintained in a condition suitable for the approved uses, and failure to pay such assessment shall create a lien on the property assessed, enforceable by the corporation, association or trust; (c) provision which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law. The developer of the OSRD shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the grantee is capable of assuming said responsibility.

- (7) Areas of the Common Open Space which are to remain as naturally-existing woods, fields, meadows, and wetlands shall be maintained in their current state, or managed in accordance with good conservation practices, all in accordance with existing regulations and laws.
- (8) If any portion of the Common Open Space is used for the purpose of construction of leaching areas associated with septic disposal systems or for water supply wells serving the OSRD, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the owners of the lots within the OSRD, individually or in common, as applicable, including the requirement that all shared septic tanks to be located within the Common Open Space must be pumped at least every two years by the homeowners' association and must be maintained in accordance with good septic system maintenance practices. Adequate assurances for access rights for maintenance and repair of such systems shall be noted in the affected deeds. Wells and septic tanks serving individual lots should generally be located on the residential building lot for the house being served, and not on the Common Land.
- (9) All required covenants, grants of easements, or conveyance, must be submitted to the Planning Board for review and approval prior to the recording and the deeding out of any of the OSRD lots.

i. Additional Design Criteria for Siting of Residential Buildings and Ways

In addition to the standards set forth above, the following objectives are encouraged in the design of the OSRD:

- (1) Buildings and streets should be placed in a manner which maximizes the usable area remaining for Common Open Space.
- (2) Buildings should be sited within any woodland contained in the parcel or along the edges of the open fields adjacent to any woodland, in order to enable new construction to be visually absorbed by the natural landscape features.
- (3) Buildings should be sited in locations least likely to interrupt scenic vistas, as seen from the public roadways, with significant public road frontage left undeveloped.
- (4) Buildings should be sited, where possible, to take maximum advantage of solar exposure.
- (5) Buildings shall be sited to avoid sensitive environmental features, including wildlife habitat, wetlands, water bodies, steep slopes or other important site features.
- (6) In the vicinity of existing historic structures on public roads, new buildings may be sited in groups close to the road to reflect the traditional locations, patterns and setbacks of nearby existing historic buildings. Such roadside groupings of residential and accessory structures should be compatible with the scale of the surrounding neighborhood. Architectural design (proportions, roof pitches and fenestration) should reflect the character of nearby existing structures.
- (7) Buildings should be sited to maximize the number of house lots with open space views and with convenient nearby access to usable open space.
- (8) Buildings should be sited so that they will not have an undue adverse impact on the surrounding neighborhood.
- (9) Buildings and ways shall be sited in order to provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.
- (10) Buildings and ways shall be sited, to the extent feasible, within the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and to preserve the natural features of the site.

5. Special Permit Application and Procedures

An application for an Open Space Residential Development Special Permit shall be submitted as outlined below and shall cover the entire Open Space Residential Development tract.

The applicant is strongly encouraged to meet with the Planning Board for an OSRD Pre-Application Conference, as provided under subsection 5.a., below. Such a Pre-Application Conference is optional and is advisory only.

An application for an OSRD Special Permit shall be accompanied by an OSRD Site Plan, as provided under subsection 5.b., below. The OSRD Site Plan shall contain a plan in the form and with the contents required of a Definitive

Subdivision Plan as set forth by the Town of Framingham Subdivision Rules and Regulations. The applications for an OSRD Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time. Once an application for an OSRD Special Permit is properly submitted, the Planning Board shall hold a public hearing and shall grant or deny a special permit based upon the information contained in the OSRD Site Plan.

a. Pre-Application Conference

(1) The applicant, as defined in Section I.E.1. herein, is encouraged to meet with the Planning Board for an OSRD Pre-Application Conference prior to submitting a formal application for OSRD Special Permit. Materials which should be submitted prior to such Conference include the calculation of dwelling unit density by way of a Density Yield Plan sketch, and an Existing Conditions Plan, both as described under subsection 5.c. below, as well as one or more preliminary Concept Plan alternatives. These materials should allow confirmation of the agreed upon density yield for a proposed OSRD tract early in the process and should provide an opportunity for informal staff and Planning Board review in the early stages of project design, preferably while various design options are still open. The applicant is advised to provide 10 copies of such plans and any accompanying material to the Planning Board at least 3 weeks prior to the proposed date for a Pre-Application Conference.

b. Procedure for Submission of Special Permit Applications

- (1) The applicant, as defined in Section I.E.1. herein, shall submit to the Planning Board ten (10) copies of an Open Space Residential Development Site Plan, conforming to the requirements of this Section IV.M.5.b., together with one original and one copy of the application form and such documents or other instruments as may be required as set forth in said application. Upon receiving the completed application, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Engineering Department, the Planning Department, the Police Department, the Fire Department, the Department of Public Works, the Board of Health, the Conservation Commission and such other departments and boards as the Planning Board may determine appropriate.
- (2) Any such Board or agency to which applications are referred for comment shall make its recommendations and send copies thereof to the Planning Board within thirty-five (35) days of receipt of the referral request from the Planning Board or there shall be deemed to be no opposition or desire to comment. The Planning Board shall not act upon said special permit application until either it has received and considered all reports requested from Town departments and boards, or said thirty-five (35) days from the date of the referral request have elapsed, whichever is sooner.
- (3) The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing, shall properly serve notice of such hearing, and shall render its decision within 90 days of said public hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. c.40A section 11, and with the requirements of Section V.L. of this By-Law. All costs of the notice requirements shall be at the expense of the applicant.

c. Contents of OSRD Special Permit Applications

The application for an Open Space Residential Development Special Permit, shall be accompanied by an OSRD Site Plan prepared by a professional landscape architect registered in Massachusetts, including all of the plans and information below.

- (1) An "Existing Conditions (Site Analysis) Plan" (at a scale of 1" = 40"), which shows
 - (a) the boundaries of the proposed Open Space Residential Development and the area of the OSRD parcel:
 - (b) identification of all wetlands, waterbodies, floodways and areas within the 100 year floodplain, and land prohibited from development by reason of legally enforceable restrictions, easements or convenants; and the area square footage of the items noted above; and
 - (c) existing topography, including the location of land with slopes exceeding 25 percent; soil types, including the location of soils subject to slumping; 100 year floodplains; springs, mature trees greater than 12 inches in diameter in all areas where existing vegetation will be considered for alteration under the proposed special permit, and general areas of existing vegetation including treelines and woodlands; and the location

of other significant features, including rock outcrops, open fields or meadows, drumlins, scenic views into or out of the property, tracks and trails; and existing streets, structures, including historic structures, fences and stone walls within and contiguous to the site; and existing easements.

- (2) A "Concept Plan" for the proposed OSRD (at a scale of 1" = 40') which shows
 - (a) the intended location, ownership and use(s) of the proposed Common Open Space, and all improvements and structures intended to be constructed on the proposed Common Open Space;
 - (b) the approximate intended location of each residential building, accessory structure and facility and of the building envelope on each lot;
 - (c) the approximate location of all lot lines, with approximate areas and dimensions, with lot numbers assigned to each lot in sequence;
 - (d) the identification and location of all significant natural and manmade features of the site to remain, and to be removed under this proposal;
 - (e) the intended location and layout of all roads and accessways, with approximate finished grades, and street widths;
 - (f) the proposed system of drainage and the methods for providing water distribution and sewerage facilities, including easements; and
 - (g) a table containing the total area of the OSRD; the total area of the proposed Common Space and its percentage of the OSRD area; and the total area of wetlands and its percentage of the OSRD area and its percentage of the proposed Common Space.
- (3) A "Density Yield Plan" sketch (at a scale of no less than 1" = 100") showing how development of the parcel would be achieved by a conventional subdivision plan, in accordance with all applicable land use regulations, and identifying major site features, as provided under Section IV.M.4.c.(1) herein, to determine the maximum allowable density under this Special Permit.
- (4) A "Locus Plan" (at a scale of 1" = 100"), which shows the relation of the proposed OSRD streets, utilities and easements to the existing systems, and shows the relation of the proposed OSRD Common Open Space to existing open space areas and corridors for a distance of 1,000 feet beyond the project boundaries, and which shows the relation of the approximate intended location of residential structures and other buildings in the proposed OSRD tract to all lots, identified by ownership, and all existing structures for a distance of 300 feet beyond the project boundaries.
- (5) Standard information, including a Title Block with the subdivision or OSRD name, date, scale, legend, and title of the plan; a Planning Board Signature Block at approximately the same location on each page, names and addresses of owner(s), developer(s), and subdivider(s), and name, address, signature(s) and seal(s) of the surveyor or engineer and of the landscape architect responsible for preparation of the plans; and a north arrow; all of which should be located similarly on each plan submitted; as well as identification of parcel by sheet, block and lot number from the Assessor's Maps; identification of the parcel as legally recorded; identification of owners of abutting lots, including owners of those lots separated only by a street from the proposed parcel, as determined from the most recent Assessor's tax records, and as certified by the Assessors of the Town of Framingham; and a zoning table showing the development dimensional standards both under existing zoning and under the proposed Special Permit, along with the dimensions being considered for the proposed development; and the maximum allowable density as obtained under item (3) above.
- (6) Copies of all instruments to be recorded with the Open Space Residential Development special permit, including the proposed deed(s) for the Common Open Space, the articles of organization and bylaws of the corporation or trust to be organized to own the land, and the language of all restrictions to be imposed on the land.
- (7) A Management Plan for the Common Open Space to be incorporated in deed covenants to be executed with purchasers of land or other interests in the OSRD.
- (8) A narrative description of the project, including the development concept, intended uses of the Common Open Space, ownership and maintenance of the Common Open Space, and an evaluation of its value to the Town with respect to protection of natural resources, open space and recreation, and accessibility to the Town, a reclamation plan in the event the parcel includes previously disturbed land, a discussion on how the

- development meets the design standards and criteria under this bylaw, and a description of the surrounding neighborhood and the impact of this proposal on the neighborhood.
- (9) The Planning Board may request additional information and data about site environmental conditions in order to assist it in establishing that the Concept Plan Standards and Special Permit Criteria of this section have been met.

d. Special Permit Criteria

- (1) In evaluating the proposed OSRD, the Planning Board shall consider the general purpose and objectives of this Section; the existing and probable future development and use of surrounding areas; the appropriateness of the proposed layout of streets, ways, lots and structures; and the design and use of the Common Open Space in relation to both the proposed dwelling units in the OSRD, and the important natural features of the proposed OSRD tract of land.
- (2) The special permit shall be granted only if the Planning Board finds each of the following:
 - (a) The proposed development shall be consistent with the Purpose and Intent of an Open Space Residential Development as described in Section IV.M.1. herein.
 - **(b)** The proposed development shall comply with the requirements, standards, and objectives of this Section IV.M., and other applicable requirements of this Zoning By-Law.
 - (c) The proposed development shall be in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood.
 - (d) The proposed development shall provide for efficient use and delivery of municipal and other services and infrastructure.
 - (e) The proposed development shall not create a hazard to abutters, vehicles or pedestrians.

e. Special Permit Conditions

As a condition of approval, the Planning Board may require such changes in the proposed development plans and may impose such conditions and safeguards, including bonding, to secure the objectives of this bylaw, and to protect the health, safety and welfare of the inhabitants of the neighborhood and the Town of Framingham.

6. Administration and Relation to Subdivision

a. Compliance with Subdivision Control Law Required

Planning Board approval of a special permit under this Section shall not substitute for compliance with the subdivision control law, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for Planning Board consideration under the law.

b. Change in Plans After Grant of Special Permit

No substantial variation from the approved OSRD Concept Plan shall be permitted in the Subdivision Plan. Following approval of the Subdivision plan, no further change in the location or use of the Common Open Space shall be permitted. No change in any aspect of the approved Subdivision Plans shall be permitted unless approved in writing by the Planning Board. Once an OSRD special permit has been obtained by the applicant, a new or amended OSRD special permit, including the requisite public hearing, will be required if the Planning Board determines any proposed change between the Definitive Plan and the OSRD Concept Plan to be substantial.

c. Limitation of Subdivision

No land shown on a Definitive Plan for which an OSRD special permit is granted under this Section may be further subdivided, unless such special permit lapses or is rescinded. Exceptions may be made for minor shifts of a lot line between residential lots within the OSRD tract, but under no circumstances may the lot lines of the Common Open Space be amended or may additional lots be created. A notation to this effect shall be shown on the Definitive Plan for an area which makes use of this special permit. Upon the written request of the applicant/owner for a recession of the special permit, the Planning Board will automatically rescind an OSRD special permit, on the condition that development of the site has not yet commenced.

d. Building Permits

The Applicant shall provide for Engineering Department review and approval plans prepared and stamped by a Registered Engineer or Land Surveyor showing proposed house location, elevations, grades and any foundation drains prior to the issuance of building permits for each lot. Concurrent with the submission of this plan a composite subdivision lot grading plan showing the proposed grading for the individual lot for which a permit is being issued shall be submitted.

e. Appeals

Any person aggrieved by a decision of the Planning Board with regard to the OSRD Special Permit may appeal such decision to a court having jurisdiction, in accordance with Massachusetts General Laws, Chapter 40A, Section 17.

f. Rules and Regulations

The Planning Board may adopt and amend reasonable rules and regulations for the administration of this Section, including a schedule of fees. As the OSRD special permit process will occur simultaneously with a definitive subdivision plan, the application fee for both the definitive subdivision review and for the OSRD special permit shall be equal to the current fee required under a definitive subdivision review fee. A portion of this fee may be assessed upon submission of the Pre-Application Conference materials. Such fee shall be deducted from the total OSRD special permit/definitive subdivision fee noted above. Direct costs associated with required legal notices shall be charged to the Applicant.

N. MIXED USE REGULATIONS

1. Purpose and Intent

The purpose and intent of these Mixed Use Regulations is to provide an opportunity for Mixed Use development with a residential component within a livable urban environment which supports the commercial revitalization of the Town's commercial areas and encourages the adaptive reuse of existing buildings.

2. Applicability

These regulations shall apply to the development or redevelopment of properties for Mixed Use or for Mixed Use Complex, as defined in Section I.E. Definitions herein, which shall collectively be referred to as Mixed Use development.

3. Mixed Use Development Standards

Mixed Use development shall be designed in accordance with the following standards:

a. Conforming Lot and Structure

The lot and structure shall conform to the dimensional regulations for Mixed Use development applicable to the zoning district, as provided under Section IV.G.2 Table of Dimensional Regulations

b. Parking Requirements

Off-street parking shall be provided in accordance with the requirements set forth in Section IV.B. Special Provisions for parking relief, as provided under Section IV.B.7., may be considered, including exemptions from required number of parking spaces and proximity requirements, as applicable, but the requirement for number of parking spaces assigned to residential uses may not be reduced below 1.25 parking spaces per residential unit. The applicant shall demonstrate that the parking to be provided shall be adequate for the uses proposed. Conditions for Approval of a Special Permit under Section IV.B.7, for a reduction to the required number of parking spaces, may include, at the discretion of the Planning Board, a contribution to a municipal parking program and/or support for public transportation or other transportation demand management programs. Such contribution shall be directly related to the reduction requested, and shall not exceed 2 percent of the development costs attributed to the residential portion of the proposed development. Such contribution shall be credited to the development under a Site Plan Review approval.

c. Open Space and Recreation Enhancement

A minimum of 200 square feet of usable on-site outdoor open space or dedicated and usable common indoor recreation space for use by unit residents shall be provided for each dwelling unit proposed within a Mixed Use development project. An applicant contribution to a program of off-site public improvements in the area of the proposed development, as set forth below, may be considered by the SPGA in partial satisfaction of this requirement. An applicant may contribute up to 1.5 percent of the development costs attributed to the residential portion of the proposed development to a program of off-site public open space, pedestrian improvements, public amenities, or community and cultural enhancements, in order to enhance the quality of life for residents of the proposed development and the general public. Such contribution for off-site improvements shall be at the discretion of the Planning Board and shall be credited to the development under a Site Plan Review approval.

d. Residential Composition

Residential composition in a proposed Mixed Use development shall be comprised of studios, one-bedroom units and two-bedroom units only. In no case may other rooms in a unit be converted to additional bedrooms. Dwelling units within a Mixed Use development may measure no less than 600 square feet. No more than twenty percent (20%) of the units in a Mixed Use development proposal may consist of studio units. No more than three individuals unrelated by birth, marriage or adoption may occupy a dwelling unit in a Mixed Use development. The Planning Board may require a stipulation of said limit on unrelated individuals be included within all leases, condominium documents, protective covenants and other related documents.

e. Separation between Residential Uses and Non-Residential Uses

Residential uses and non-residential uses in a Mixed-Use development shall be physically separated. Residential uses shall have separate and distinct entrances from non-residential uses.

f. Community Impact

A Community Impact Assessment, as set forth under Site Plan Review, Section IV.I.5.g.(4), shall be required of all proposed developments under this Special Permit, regardless of project size, and the SPGA shall consider such Assessment in its review of a proposed Mixed Use development.

4. Building Permit Limitations

Following Special Permit for Use, Site Plan Review and other regulatory processes, and in accordance with an SPGA Decision, the Building Commissioner may issue building permits for Mixed Use development for a maximum of 300 residential units for Mixed Use development per calendar year (with no rollover from a previous year). Of these 300 permitted residential units per year, no more than 250 residential units may be permitted for a specific development application in a given year. The Building Commissioner may not issue Building Permits for additional residential units in Mixed Use development once the number of such units for which building permits have previously been issued reaches three percent (3%) of the total number of dwelling units in the Town of Framingham. Any changes to the Building Permit Limitations, as set forth herein, shall require approval by Town Meeting. Building Permits for Mixed Use development shall be issued in accordance with Section V.B.3. Mixed Use Building Permit Limitation.

5. Planning Board Mixed Use Development Waivers by Special Permit

The Planning Board may, by Special Permit, grant waivers to the Mixed Use Development Standards, as set forth under Section IV.N.3. herein, and the Dimensional Regulations for Mixed Use development, as set forth under Section IV.G.2. herein, for Mixed-Use development. Such Special Permit for Mixed Use Development Waivers shall be granted only if the Planning Board makes the specific required Findings, in writing, as set forth under Section V.E.3. Conditions of Approval of Special Permit, as well as the following Finding. The Planning Board must also find that the proposed project with the waived requirement shall not be substantially more detrimental to the neighborhood than the project without the waiver. As a basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic and parking; municipal services and facilities; and the character of the neighborhood including environmental and visual features.

O. AFFORDABLE HOUSING

1. Purpose and Intent

The purposes of this By-Law provision are to:

- **a.** Ensure that all development or re-development of ten (10) or more dwelling units generates a minimum of ten percent (10%) affordable housing;
- **b.** Ensure that such housing remains affordable over the long term, and that, to the extent allowed by law, preference is given to Framingham residents;
- **c.** Maintain an economically integrated community by promoting a mix and distribution of affordable housing opportunities throughout Framingham.

2. Definitions

Affordable Housing Unit (AHU) - A residential unit that is restricted in its sale, lease or rental to a qualified incomeeligible household at specific price limits that qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing.

Qualified income-eligible household - A household with combined incomes that do not exceed 80% of the median income for the Boston Metropolitan Statistical Area, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

Re-development - The creation of ten (10) or more new dwelling units in, or added to, an existing building.

3. Applicability

An Affordable Housing Special Permit under this section shall be required from the Planning Board for all development or re-development of ten (10) or more dwelling units on one or more contiguous parcels, whether such units are proposed under a special permit process pursuant to G. L. c. 40A sec. 9, or proposed pursuant to "the Subdivision Control Law" G. L. c. 41 sec. 81K to 81GG inclusive, including divisions of land that do not require subdivision approval.

4. Mandatory Provision of Affordable Units

The Planning Board shall require as a condition of approval of any development or re-development referred to in Section IV.O.2. that the applicant for special permit approval complies with the obligation to provide affordable housing pursuant to this By-Law as provided below.

- **a.** <u>Units to be Sold</u>: The applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten (10). The cash payment shall be equal to 3% of the actual sales price of each subsequent dwelling unit over the multiple of ten (10) and shall be paid to the Town at the closing of each unit.
 - For example, a development or re-development of ten (10) dwelling units shall require the provision of 1 AHU; 20 dwelling units shall require 2 AHU's, etc. Sixteen dwelling units shall require 1 AHU and a cash payment of 3% of the sales price of the next six units, which shall be paid to the Town at closing; 24 dwelling units shall require 2 AHU's and a cash payment for the next four units, which shall be paid to the Town at closing.
- **b.** <u>Units to be Rented</u>: The Applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten (10). The cash payment for fractional units shall be one (1) month's anticipated rent of such units to be paid at any time prior to any occupancy permit for more than ten (10) units.
- c. <u>Provision of Extra Qualifying Units</u>: Provision of AHUs in excess of the requirement of this by-law shall make any cash payment for a fractional unit unnecessary.

- **d.** <u>Handling of Cash Payments</u>: Cash payments under this Section IV.O. shall be maintained in a separate account by the Framingham Economic Development and Industrial Corporation. Said funds shall be available only to purchase, develop, construct, or rehabilitate affordable housing units or to assist income-eligible buyers with the purchase of AHUs in Framingham.
- e. Non-Avoidance by Phasing: A development shall not be segmented or phased in a manner to avoid compliance with this By-Law. After May, 12, 2004, the Planning Board shall not approve any application for development or redevelopment that results in ten (10) or more new dwelling units if the land or parcels of land were held in common ownership (including ownership by related or jointly-controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section IV.O. Affordable Housing. This By-Law shall be enforceable also against purchasers of land previously held in common ownership with land that received, after the date of adoption of this Section IV.O, approvals or permits for development, to the effect that units developed under such previous development shall be counted toward the calculation of number of units under Sections IV.O.4.a. and IV.O.4.b. herein.
- **f.** <u>Location of AHUs</u>: The required AHUs may, with Planning Board approval, be provided by use of the options stated in the following table. All of the required AHU's shall be newly created AHU's.

Option 1	Provide the required AHU on the locus subject to the special permit.
Option 2	If the applicant can demonstrate that building the AHU's on the locus will make the development "uneconomic ", they may purchase and rehabilitate or build the AHU's off site but within a residential zoning district which is the same as that of the proposed project.

^{*} as defined in MGL ch. 40B § 20

5. Required Characteristics of Affordable Housing Units

- **a.** <u>Siting:</u> All on-site AHUs constructed or rehabilitated under this By-Law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be equally accessible to public amenities, such as open space, as the market-rate units.
- **b.** <u>Design and construction:</u> AHUs within market-rate developments shall be integrated within the development and shall be compatible in exterior design, appearance, construction and quality of materials with the other dwelling units being proposed. AHUs provided under Options 2 shall be compatible with the neighborhood.
- **c.** <u>Rights and Privileges:</u> The owners and tenants of market-rate dwelling units and the owners and tenants of the AHUs shall have the same rights and privileges to access any amenities available in the development.

6. Types of Affordable Housing Units

AHUs may be of the following types: single family dwellings, two-family dwelling units, three-family dwelling units, multi-family dwelling units, cluster development dwelling units, mixed-use development dwelling units, planned unit development dwelling units, and such other types of dwelling units as may be allowed in the future and approved pursuant to the Zoning By-Law.

7. Marketing Plan for Affordable Units

Applicants under this By-Law shall submit to the Planning Board a marketing plan or other supporting material for approval by the Department of Planning and Economic Development and the Planning Board. Said marketing plan shall describe how the affordable units will be marketed to potential homebuyers or tenants, and shall include a description of the process to be used for selecting qualified occupants. The marketing plan shall describe how the applicant will accommodate local preference requirements established by the Town, if any, in a manner that complies with the non-discrimination in tenant or buyer selection guidelines of the Local Initiative Program of the Commonwealth or successor program.

8. Affordable Housing Regulations

Pursuant to G.L. c.40A, sec. 9, the Planning Board shall adopt and maintain a set of Affordable Housing Regulations that contain the necessary policies, procedures, and requirements to implement the provisions of this Section IV.O.

9. Restrictions

- a. Restrictive documents: To assure their affordability, AHUs shall be rented or sold subject to applicable deed covenants, contractual agreements and other mechanisms, acceptable to the Town and established in accordance with the standards of the Commonwealth's Department of Housing and Community Development (DHCD) or successor or additional programs adopted by the Commonwealth or its agencies, restricting the use and occupancy, rent level, and sales price of such AHUs.
- **b.** <u>Term of Use Restriction:</u> A Use Restriction shall ensure that AHUs created under this section shall remain affordable in perpetuity or for as long a period as is allowed by law. All such restrictive documents shall be enforceable and renewable by the Town pursuant to applicable law.
- **c.** <u>Chapter 40B Inventory of Subsidized Housing</u>: An AHU shall be restricted in its initial and any subsequent sale, lease or rental to a qualified income-eligible household at a specific price limit that will qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing.
- d. Selection of Eligible Tenants and Homeowners: There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for affordable homeownership units. The Town of Framingham may contract with a quasi-public, public or private entity, experienced in affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.
- **e.** <u>Income and Asset Limits</u>: For tenants and purchasers household income shall not exceed 80% of area median income based on household size as determined by HUD. Tenants and purchasers shall also be required to demonstrate that total household assets other than income are not so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.
- **f.** Occupancy: The deed covenants for AHUs shall require, whether the unit initially is sold or rented, that the occupant of that unit must be an income-qualified person as defined in this Section IV.O. This provision shall not prohibit a unit initially designated as owner-occupied from being leased, so long as it is a lease qualifying under the provisions hereunder and the occupant is an income-qualifying person.

10. Enforcement

- **a.** Loss of Eligibility Status: Nothing in this section shall be construed to permit eviction of a home owner or tenant of an AHU due to loss of his/her eligibility status during the time of ownership or term of lease or rental.
- b. <u>Transfer of AHU</u>: The restrictions governing an AHU shall be enforced upon resale, re-rental or renewal of lease of the AHU. For owner-occupied units, the use restriction shall ensure that units may only be resold to incomequalified buyers consistent with the then applicable income limits established by the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.
- c. All Restrictions Remain in Effect: Nothing in this section shall be construed to permit any deed restriction, covenant, agreement or other mechanism restricting such items as the use and occupancy, rent level, and resale price of AHUs, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law. It is intended that the restrictions required herein shall survive, to the limit allowed by law, including, but not limited to, bankruptcy and foreclosure.
- **d.** <u>Timing of commitments</u>: All contractual agreements required hereunder and any documents necessary to insure compliance with this section shall be approved as to content by the Planning Board and Town Counsel prior to the issuance of any occupancy permit for newly constructed, rehabilitated, or rental units.
- e. Reporting: The Town shall publicly report annually (1) whether rental units are rented to low or moderate income households at rents not exceeding the maximum rents set forth above, (2) whether ownership units continue to be occupied as the domicile and principal residence of the owner, and (3) in the event of a resale, whether the unit has

been resold to a low or moderate income buyer for no more than the maximum permissible resale price and subject to a new or continued Use Restriction. The Department of Housing and Community Development shall be provided a copy of the report. In the event of noncompliance the Town shall take prompt action to restore compliance, including litigation if necessary.

- **f.** Approval of Form and Content of Legal Documents: The project applicant shall prepare all deeds and legal instruments required to comply with Section IV.O. herein, and such documents shall be in a form satisfactory to Town Counsel. The applicant shall reimburse the Town for the reasonable legal expenses incurred by Town Counsel in reviewing or revising said deed and legal instruments.
- **Timing of Provision of AHUs:** As a condition of the issuance of a special permit under this Section, the Planning Board shall establish a time schedule for the provision of the AHUs or payment in relation to the market-rate dwelling units.
- **h.** Recording of Restrictions: The special permit decision and all restrictive covenants required thereunder shall be recorded, as applicable, at the Registry of Deeds or Registry District of the Land Court prior to the endorsement of any subdivision plan for the development and before the issuance of any building permit for the development.
- i. <u>Content of Restrictions</u>: Where the Planning Board endorses a subdivision of land that contains tracts of land not divided into building lots, but which land could later trigger the provisions of Section IV.O.4.e. herein, the covenant for such subdivision shall note the potential for the provisions of Section IV.O.4.e. to apply to a later development.

11. Severability

Any determination that a particular provision or set of provisions in this Section IV.O are invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this Section IV.O.

P. ACTIVE ADULT HOUSING

1. Purpose

This by-law is intended to provide housing for adult residents age 55 and older and designed to protect significant land, water, scenic, wildlife habitat and historic resources and to mitigate the impacts of residential development on municipal services.

2. Definitions

The following terms shall be specifically applicable to these Active Adult Housing regulations and shall have the meanings provided below.

Active Adult Housing: A group of dwelling units for older adult residents of which at least one resident per dwelling is 55 years of age or older within the meaning of M.G.L. c.151B, sec. 4(6) and 42 U.S.C. Sec. 3607(b)(2)(c), and in accordance with the same.

Developable Site Area: The Developable Site Area shall be calculated by subtracting from the lot or parcel area all undeveloped land wich is:

- **a.** A wetland, which shall mean a "freshwater wetland" as defined in M.G.L. Chapter 131, Section 40 and the Framingham Wetlands Protection Bylaw, Article 18 of the General Bylaws;
- **b.** A Floodplain District as defined in Section III.H. of the Framingham Zoning By-Laws;
- c. All areas of the site with slopes natural and unaltered greater than fifteen percent (15%) over a horizontal distance of 100 feet, as measured perpendicular to the contour line;
- **d.** Any area that may not be built upon due to infrastructure restrictions such as easements for electric, gas, water or similar utility, or DEP regulations related to water supply;
- e. Fifteen percent (15%) of the entire parcel for roads and impervious surface;
- **f.** The common open space area as defined herein;
- **g.** Rock or ledge outcropping.

The Developable Site Area shall not include land in another zoning district in which the principal use of the lot or parcel is not also permitted or land in another municipality.

Exclusive Use Area (EUA): The outside area adjacent to each residential unit, which is the designated area on the approved Active Adult Housing Plan for the exclusive use of the occupant of that unit.

Senior: An individual who is 55 years of age or older.

3. Applicability

- a. As the Special Permit Granting Authority, the Planning Board may grant a special permit for the development and construction of an Active Adult Housing Development in the Single Residence Districts in accordance with this Section, Section V.E. herein and MGL, Ch. 40A, Sec. 9., provided that no variances have been issued by the Zoning Board of Appeals from the requirements of this Section IV.P.
- **b.** Any change in the number of lots, dwelling units or bedrooms, the layout of the ways, any significant changes in the common open space, its ownership or use, or in any conditions stated in the original special permit shall require application for a new or modified special permit in accordance with the provisions of this Bylaw.
- where these regulations differ from or conflict with other provisions of the Zoning Bylaw or the Subdivision Rules and Regulations, the provisions stated within this Section IV.P. shall prevail.

4. Special Permit Application and Procedure

a. The Planning Board shall be the special permit granting authority for the issuance of an Active Adult Housing Special Permit. Such special permit applications shall be submitted, considered, and issued only in accordance with the provisions of this Section IV.P. and V.E. of the Framingham Zoning By-Law, the Rules and Regulations

Governing the Subdivision of Land in the Town of Framingham (Subdivision Rules) and MGL, CH. 40A, sec. 9 and all other information that may be required by the Planning Board under its Rules and Regulations as may be adopted.

- b. Any person who desires a Special Permit for an Active Adult Housing Development shall submit an application and site plan prepared by a qualified professional registered in the Commonwealth of Massachusetts, such as a Registered Professional Engineer, a Registered Architect, and a Registered Landscape Architect, that meets the requirements set forth herein and in Sections 1, 2, 3, 6 and 7 of Subdivision Rules and Section V.E.3. of the Framingham Zoning By-Law. To the extent permitted by law, all applications and permits required under this By-Law may be considered concurrently.
- c. Based upon the scope of the project and physical characteristics of the parcel, the Planning Board may require additional information or a supplemental impact statement, such as additional geological investigation or high intensity soils mapping of the site. The Planning Board, at its sole discretion, may determine that a proposed project's size, scale, complexity, potential impact or use of the land warrants the use of outside consultants. Such consultants shall assist the Planning Board, for review and comment prior to action by the Planning Board in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, providing legal counsel for decisions and covenants, and monitoring or inspecting a project or site during construction or post-construction for compliance with the Board's decisions or regulations. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant in accordance with Article 16 of the Planning Board Rules and Regulations.
- d. Any person intending to submit an application for an Active Adult Housing Development shall have a preapplication conference with the full Planning Board that has been noticed by a community notice sign posting on the
 property, in the local newspaper at the Applicant's expense and by mail to abutters and to town meeting members in
 the precinct at which time the applicant shall describe the proposed plan and any impacts to the parcel of land that
 will be required in order to file a complete application. If the Active Adult Housing Development is proposed to
 have private wells and sewage disposal systems on site, the Applicant shall submit the proposal to the Board of
 Selectmen for the purpose of determining by majority vote whether to allow a well or septic system on the site. The
 Board of Selectmen acting as the Water and Sewer Commissioners shall hold a public hearing within 45 days of said
 submission. No tree removal, no utility installation, no ditching, no soil or percolation testing, no well testing, no
 grading or construction of roads (temporary or otherwise), no grading of land or lots, no excavation, no dredging or
 filling, and no construction of buildings or structures shall be done on any part of the development site until the
 proposal has been reviewed at the pre-application conference and the Board has given its approval for the required
 work.
- e. The Planning Board, at its discretion and based upon the pre-application conference and preliminary assessment of the scale of the development proposed, may modify or waive the application requirements for submission in the Subdivision Rules. Such modifications or waivers from the application submission requirements shall be requested in writing with supporting reasons. Any such preliminary waivers granted at the pre-application or preliminary level of review is a preliminary assessment by the Planning Board and such waivers shall not be binding upon the Planning Board at the Definitive Subdivision Review and/or Special Permit Review.

5. Age Restriction

Each dwelling in an Active Adult Housing Development shall be subject to an age restriction, and said age restriction shall be part of the deed, deed rider, restrictive covenant or other documents of record that shall be recorded at the Registry of Deeds of the Land Court. The age restriction shall run with the land and shall be enforceable by any or all of the owners of dwelling units in the Active Adult Housing Development or by the Town of Framinghman.

- **a.** Such age restriction shall limit the dwelling units to occupancy by adults only, one of whom must be a senior, and shall provide for guest visitation rights for minor children up to 60 days per calendar year.
- b. Marketing of units in an Active Adult Housing Development shall comply with all Fair Housing Laws and shall include, to the extent legally allowable, a strategy for marketing units to Framingham residents and their immediate families.

c. In the event of the death of the qualifying owner/occupant(s), or foreclosure or other involuntary transfer of a unit in an Active Adult Housing Development, an age restriction exemption shall be allowed for the transfer of the unit to another eligible household for at least two year.

6. Allowed Uses

The following uses shall be allowed in Active Adult Housing Special Permit: detached dwellings for one family dwelling, two-family dwellings, and multifamily dwellings up to three units per building; accessory uses typically associated with residential uses including, but not limited to, clubhouses, swimming pools, tennis courts, cabanas, storage and maintenance structures, garages, common facilities and uses as set forth herein; and uses allowed on the Common Open Space, as set forth herein. More than one building may be located on a lot.

7. Active Adult Housing Dimensional Regulations

Active Adult Housing shall comply with the following dimensional regulations.

a. Table of Dimensional Regulations

Minimum Parcel Area where both municipal sewer and	10 acres
municipal water are available. Minimum Parcel Area where either municipal sewer or	20 acres
municipal water are not available.	20 acres
Minimum Common Open Space Area Dedication.	30% of the entire parcel.
Minimum frontage of the Parcel.	100 feet
Minimum setback of buildings, structures, stormwater	I. 75 feet from the side and rear setback from the
facilities and paved areas from all lot lines, but excluding	parcel property lines
EUAs, access driveways and walkways.	II. 100 feet from the right-of-way of a public
	street.
	III. 200 feet from the right-of-way of a designated
	Scenic Road.
Maximum height of buildings and structures.	2 stories/30 feet
Maximum footprint of any building. Unit garages whether	6,000 square feet for one-story building
attached or detached shall be included in the footprint of the	4,000 square feet for two-story building
building.	
Maximum Parcel Coverage by buildings.	R-4 15%
	R-3 25%
	R-2 30%
	R-1 35%
Minimum Exclusive Use Area (EUA) per dwelling unit.	400 square feet
Maximum dwelling units per building.	3 dwelling units per building
Maximum Number of Bedrooms per dwelling unit.	2 bedrooms per attached dwelling unit.
	3 bedrooms per detached dwelling unit.
	The Applicant shall submit interior building plans to
	demonstrate compliance with the maximum allowable
	number of bedrooms per dwelling unit.
Maximum Number of Bedrooms.	8 bedrooms per acre of Developable Site Area. In
	areas not served by public water and/or sewer the
	Planning Board may reduce the maximum number of
	bedrooms.

- **b.** <u>Construction Limitations</u>: Buildings, structures, roadways and driveways may be built only on the Developable Site Area on slopes natural and unaltered of fifteen percent (15%) or less. No dwelling unit shall be constructed above another dwelling unit.
- **c.** <u>Perimeter Buffers</u>: A minimum of seventy-five (75) foot wide buffer between an Active Adult Housing Development and abutting properties is required around the entire parcel perimeter; provided, however, the entrance roads and

pedestrian paths may cross the buffer. Where the perimeter buffer is wooded, it shall remain in a natural undisturbed state to preserve the visual character of the parcel being developed and to minimize impacts to abutting properties. The Planning Board may require no-cut easements or conservation restrictions within the perimeter buffer. Suitable landscaping materials and fencing may be required by the Planning Board to provide screening of the development where the Planning Board finds that the natural vegetative buffer does not provide sufficient screening for abutting parcels.

d. <u>Minimum separation of Buildings</u>: 30 feet of separation where the separation is between the sides of two buildings; 80 feet separation where the separation is between the backs of two buildings; and 50 feet of separation where the separation is between the side of one building and the back of another building. The Planning Board may reduce this requirement, by waiver, where topography or landscaping creates sufficient visual separation and privacy, and where the reduction results in better overall site design. The siting of building with the backs of two buildings facing each other shall be discouraged.

8. Hydrological Impact Study and Nitrate Loading Analysis

Prior to the issuance of a special permit, the Applicant shall be required to provide a Hydrological Impact Study and Nitrate Loading Analysis for any proposed on-site water and/or sewage disposal systems, individual, common, or shared, to demonstrate that the development will have an adequate water supply and sewerage collection system and shall not have an adverse impact on the quantity and quality of any existing surface or groundwater resources or existing water supplies and wells. The location of all wells and septic systems on abutting properties shall be reviewed in the study and identified on the developmental plan. The analysis shall conform to the requirements of the requirements of the Massachusetts Department of Environmental Protection and be subject to peer review by a licensed hydrologist, expert in the field of evaluation these impacts.

9. Architectural Design Standards

Architectural style and siting of Active Adult Housing buildings shall be consistent to the extent feasible with the prevailing character and scale of buildings in the neighborhood. To provide visual interest and avoid monotony, the architecture shall be designed to provide variation through the use of color, building materials, details, breaks in roof and wall lines, porches, detailed cornices and substantial roof overhangs, dormers, screening and/or other architectural elements. Traditional materials such as masonry and wood are strongly encouraged for the exterior facades. Windows and exterior doors shall be consistent and compatible with the materials, style and color of the building, and shall be arranged to give the façade a sense of balance and proportion.

All dwelling units in an Active Adult Housing Development shall be designed and constructed to be adaptable with only minor structural changes to meet the requirements for Group 1 residences as set forth in the Massachusetts Building Code, 521 CMR (Architectural Access Board), as amended. Such dwelling units shall have at least one exterior entrance at ground level. Residential parking spaces shall be located as defined in Section 12 herein.

10. Parking Requirements

One vehicular parking space shall be required per principal dwelling unit with one bedroom and two vehicular parking spaces shall be required per principal dwelling unit with two bedrooms. In addition, one vehicular parking space shall be required for every four (4) dwelling units for visitor parking. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, may be required, as determined by the Planning Board, in off-street parking areas. No single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped.

11. Parking and Garage Design Standards

Residential parking spaces shall be located in reasonable proximity to the dwelling or in attached garages. One or two car parking garages attached to individual dwelling units shall be encouraged. S uch garages shall be designed so as to complement and not dominate the building design and site layout. They shall not obscure the front of the unit or building and may extend no more than six feet (6') beyond the face of the building, unless the Planning Board waives this requirement. Freestanding garages shall be located to the side or to the rear of the building or units.

12. Common Open Space

- **a.** At least fifty percent (50%) of the Common Open Space shall meet the criterial for Developable Site Area. The Common Open Space Area shall not include the area of roadways, Zone 1 of a public water supply, dwelling units or Exclusive Use Areas.
- **b.** The Common Open Space shall be designed in accordance with the requirements of Section IV.M.4.f. (2) through (7) inclusive of the Framingham Zoning By-Law.
- **c.** The Use, Ownership and Maintenance of the Common Open Space shall be in accordance with the requirements of Section IV.M.4.g. and h. of the Framingham Zoning By-Law.
- **d.** Common Open Space located outside the Developable Site Area, used for passive recreation and owned or controlled by an entity other than the Homeowner's Association shall be accessible to the public.
- e. Wetlands as determined by the Conservation Commission, shall not qualify as Open Space.
- **f.** The Open Space shall be left in an undisturbed state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board.

13. Common Facilities

Common facilities may include accessory uses to the dedicated Use or Uses of the Active Adult Housing Development, including pavement and structures, provided that such a use enhances the general purpose of this By-Law and enhances better site and community planning. Such uses may include, but are not limited to, a clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures and such facilities as common leaching areas associated with septic disposal or sewage systems serving the Active Adult Housing Development, pumping stations and appurtenances, storm water drainage systems and infrastructure, private streets, driveways, sidewalks, paths and common parking areas. Such uses and above ground common facilities shall generally be located outside of the dedicated Common Open Space, and shall be suitably landscaped to enhance the appearance of the facility. Underground pipes and utility easements may, however, extend through the Common Open Space, where necessary, to make proper connections and prescribed loops to existing infrastructure.

14. Homeowner's Association

The applicant shall establish a homeowner's association for the Active Adult Housing Development. The homeowner's association shall operate in accordance with a Homeowner's Association Agreement which shall be submitted to the Planning Board and Town Counsel for review and approval prior to its recording or the sale of any unit or the release of the dwelling units. The homeowner's association documents shall provide for the maintenance in perpetuity of the common area lands and Common Open Space, the drainage system of the development including any detention or retention basins, common sewage facilities, common leaching areas, common wells, streets and sidewalks, paths, common recreation and maintenance facilities, common parking structures and parking lots, and other common use areas and facilities within the development. Snow-plowing within the project limits and rubbish disposal will be, and shall also remain in perpetuity, the responsibility of the project owner/developer or subsequent homeowner's association, and not the Town.

15. Conditions of Approval of Special Permit

The Planning Board shall not approve any application for a special permit unless it finds in its judgment that all of the following conditions are met:

- a. those conditions prescribed in Section V.E.3.a. of the Framingham Zoning By-Law;
- b. a Definitive Subdivision Plan Approval for the parcel has been received and
- **c.** where there is no municipal water and/or sewer, the application has been approved by the Board of Health, prior to the vote of the Planning Board;

d. where there is no municipal water and/or sewer, the Planning Board may at its discretion require the applicant to receive approvals from the Massachusetts Department of Environmental Protection, prior to the vote of the Planning Board.

In approving a special permit, the Planning Board may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, including but not limited to those prescribed in Section V.E.3.b. of this Bylaw.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a special permit.

16. Limitation of Subdivision

No lot shown on a plan for which a permit is granted under this section may be further divided so as to reduce the area of any lot for the purpose of creating an additional building lot(s) and a condition to that effect shall be shown on the recorded plan and on each deed conveying building lots on said plan.

17. Building Permit Limitation

The Building Commissioner shall not issue building permits for Active Adult Housing developments once the number of such units for which building permits have previously been issued reaches two percent (2%) of the total number of dwelling units (26,734) in the Town of Framingham as documented in the 2000 Census. Any changes of the Building Permit Limitation, as set forth herein, shall require approval by Town Meeting.

18. Enforcement

In accordance with the provisions of M.G.L.c.40A, Sec. 7, the Town may enforce the conditions imposed on the exercise of special permits under this Section to the fullest extent permitted in equity or law. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, or if the applicant shall otherwise fail or neglect to comply with the conditions imposed on the exercise of the special permit, the Building Commissioner may issue an order of compliance or stop order to the applicant or his agent. Failure to comply with an order of the Building Commissioner will be viewed as a continuing violation of the Zoning Bylaw which could result in fines of \$300 per day for each violation, and each day that a violation continues shall be considered a separate offense subject to fines of up to \$300 per day for each offense. Additionally, the Town may seek any other legal remedy available to it pursuant to M.G.L. c.40A, Sec. 7, or any other relevant provision of law. Applicants aggrieved by an order of the Building Commissioner or his agent issued pursuant to this section shall have 30 days from the date of said order to appeal to the Zoning Board of Appeals.

19. Severability

The provisions of this Section IV.P. of the By-Law are severable. Any determination that a particular provision or set of provisions in this Section IV.P. are invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this Section IV.P.

Q. DRIVE-THRU FACILITY REGULATIONS

1. Purpose

The purpose of this By-law is to provide site design guidance at the planning application stage in order to assess, promote, and achieve appropriate development of a drive-thru facility. Each drive-thru facility will be reviewed in conjunction with this By-law for specific site context and conditions.

2. General Provisions

- a. **Drive-thru Facility Application:** Applications for a new drive-thru facility or for modification of existing structures submitted after the adoption of this section shall require a Special Permit from the Planning Board in conformance with the provisions of this section herein.
- b. **Drive-thru Facility:** The portion of an establishment that provides or dispenses products or services by an attendant or an automated machine to persons remaining in vehicles that are in designated stacking lanes. A drive-thru facility may be a standalone establishment or in combination with other uses such as a financial institution, personal service store, retail store, eating establishment, or gasoline stations.
- c. **Elements of a Drive-thru Facility:** A drive-thru facility is composed of the stacking lanes and the service area. A stacking lane is the space occupied by vehicles queuing for the service to be provided. The service area includes, but is not limited to, the order stations, windows, menu boards, speakers, and lighting.

3. Drive-thru Facility Site Design Standards

- a. The access points to the drive-thru facility from the public way shall be constructed a sufficient distance from roadway intersections to prevent traffic conflicts, overflow, and congestion. When possible, the drive-thru facility shall exit onto a secondary street.
- b. The stacking lanes and service area shall be located to the side or rear of the buildings and site.
- c. All driveways and stacking lanes shall be clearly delineated on-site with pavement markings and traffic control signage.
- d. The exit from the drive-thru facility shall have unobstructed lines of vision clear of vegetation and signage.
- e. The maximum number of stacking lanes permitted for:
 - i. food/eating establishments is two stacking lanes;
 - ii. financial institutions is two stacking lanes; and
 - iii. all other drive-thru facilities is one stacking lane.
- f. The drive-thru facility shall be designed to reduce pedestrian and vehicular conflicts. A minimum of seventy-five percent of the parking spaces shall be designed so there are no conflicts between the stacking lanes and the pedestrian access into the establishment.
- g. Adequate space shall be provided between the stacking lane and the parking field to maintain safe parking conditions.
- h. The stacking lanes shall not block access to parking spaces, on-site loading areas, and trash removal operations and facilities.
- i. The stacking lanes shall be effectively separated from the parking field through the use of curbing, raised islands, and/or landscaping improvements. The Planning Board may permit the use of hardscape improvements such as decorative pavers and bollards to meet this design objective.

- j. Each stacking space within a stacking lane shall be a minimum of twenty feet in length and ten feet in width along straight portions and twelve feet in width along curved segments of the stacking lane.
- k. All interior pedestrian crosswalks shall be a minimum of eight feet in width, and constructed of material that contrasts with driveway and surface treatments. The Planning Board may require crosswalks to be raised up to curb level.
- 1. An emergency exit and/or by-pass lane may be required for the stacking lane or service area.
- m. The service area and stacking lanes shall be located a sufficient distance from the property line of adjacent uses to prevent noise or lighting impacts.
- n. In addition to the standard requirements of the Zoning By-law, the Planning Board may require additional buffering and screening to effectively shield adjacent properties from a drive-thru facility.
- o. When a drive-thru facility is proposed on a property within an historic building as defined under Section IV.G.7.b.3. of the Framingham General By-laws, the architectural character defining exterior elements of the historic building shall be preserved.
- p. The service area shall incorporate weather protection features.
- q. All elements of the drive-thru shall be designed to provide adequate clearances as may be required by state and federal regulations with respect to the design of any architectural access features required under the Americans with Disabilities Act (ADA) and with 521 CMR Architectural Access Board Rules and Regulations.

4. Number of Required Drive-thru Lane Stacking Spaces

- a. Food/Eating Establishment (including, but not limited to, Fast Order Food Establishment and Restaurant establishments)
 - i. A minimum of ten stacking spaces shall be provided before the service area. If the service area has two order stations, the ten stacking spaces may be divided between each of the order stations.
 - ii. A minimum of five additional stacking spaces shall be provided after the order station. If the drive-thru facility has a transaction window before the pick-up window, an additional two stacking spaces are required between the transaction window and the pick-up window.
 - iii. A minimum of two designated customer delivery spaces shall be provided for a drive-thru facility.
- b. **Financial Institution** A minimum of three stacking spaces shall be provided before the transaction service (i.e. teller window, automated teller, or automated teller machine). If the facility has two stacking lanes, the stacking spaces may be divided between the two stacking lanes.
- c. **All Other Drive-thru Facilities** A minimum of four stacking spaces shall be provided before the transaction service. The Planning Board may require additional stacking spaces based on the anticipated queuing demand for the drive-thru facility.

5. Additional Conditions, Limitations, and Safeguards

- a. The Planning Board may by a special permit, four-fifth vote, waive the above referenced provisions herein, if the Planning Board determines that an alternate design serves a public benefit or contributes to an overall better site design.
- b. Any application for review and approval of a drive-thru facility shall also be subject to Site Plan Review under Section IV.I. The Site Plan Review application shall be submitted concurrently with any Special Permit application.

- c. In granting approval of an application for a drive-thru facility, the Planning Board may attach conditions, limitations, and safeguards as deemed necessary. Such conditions, limitations, and safeguards shall be in writing and be part of such Special Permit approval. The Planning Board may attach the following conditions to the Special Permit approval:
 - i. Conditions to provide a system of joint use driveways and cross access corridors with adjacent properties to facilitate access management, to prevent traffic safety hazards, and to maintain the level of service on adjacent roadways;
 - ii. Conditions to require additional stacking spaces based on a specific proposal; and
 - iii. Conditions to allow the Planning Board to evaluate the facility up to one year of operation to determine that the conditions are sufficient to mitigate any adverse impacts.

The failure to comply with this By-law and/or the terms of the permit may result in revocation of the permit issued hereunder. The Planning Board shall by first class mail send the owner written notification of any failure to comply with this By-law and/or the terms of the permit. If the owner believes that he is not in violation, he may request and will be granted an opportunity to attend a Planning Board meeting to try to resolve the alleged violation. If within 30 days from the date of mailing of said notice, the owner has not resolved the matter with the Planning Board, or remedied the alleged violation, it shall be grounds for revocation of the permit.

At the expiration of the 30 day period, the Planning Board after a duly noticed public hearing, including notice to the owner by first class mail, may revoke the permit if it finds by a four-fifths vote that there has been a violation of this By-law and/or the terms of the permit and that the owner has failed to remedy it; alternatively, the Planning Board may continue the public hearing, or by a four-fifth vote extend the time period in which the violation may be corrected.